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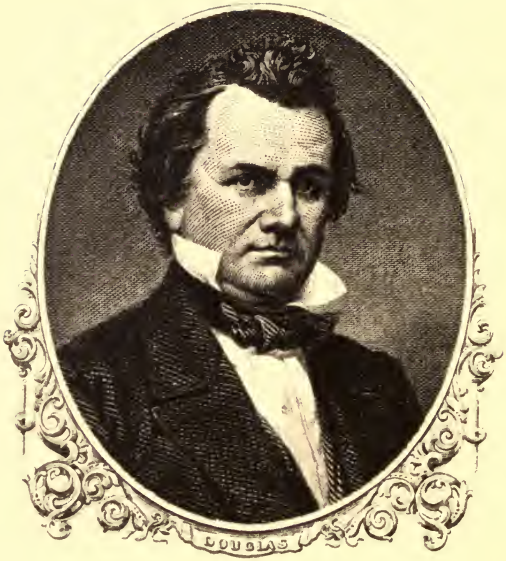
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The Works of Henry Clay

Volume Nine

Speeches

Part Four

161291

NOTE

As originally printed, the *Speeches* were issued in two thick volumes. In this edition the material has been divided into four volumes. The paging is continuous through the first and second, and through the third and fourth.

CONTENTS

PAGE

On the Abolition of the Veto Power 301
Explanation of the Compromise Tariff 320
On Measures of Public Policy 322
Mr. Clay's Valedictory to the Senate 352
On Retiring to Private Life 359
Reply to Mr. Mendenhall 385
General Introduction to Speeches in the Thirty-First Congress 391
On Father Mathew 392
On the Admission of California 394
On Mr. Foote's Motion for a Special Committee to Prepare a Bill of Compromise on Mr. Clay's and Mr. Bell's Resolutions 410
On Abolition Petitions 419
On Giving Lands for Railroads 421
On the Search for Sir John Franklin 424
On the Report of the Committee of Thirteen 426
On the Question—Does the Constitution Carry Slavery into the Territories? 452
Answer of Objections to the Report of the Committee of Thirteen 458
Mr. Clay and Mr. Soulé—A Skirmish 479
On the Title of Texas 482
On the Boundaries of Texas 500
On Economy of Time 509
On a Memorial from the State of Delaware 512
On the Admission of California 515
A General Review of the Debate on the Compromise Bills . 529
Who Occasioned the Loss of the Bill? 568
On the Abolition of the Slave-Trade in the District of Columbia 576
On the Two Per Cent. Fund in Missouri 592
On Violations of the Fugitive Slave Law 609
The Last Parliamentary Effort of Mr. Clay 629

ON THE ABOLITION OF THE VETO POWER.

IN SENATE, JANUARY 24, 1842.

[NOTHING could be more startling to those who hold in high esteem the liberties of the country, than the abuse of the veto power, since General Jackson first occupied the executive chair of the nation; and nothing more strange than that it should be so patiently endured. The following speech of Mr. Clay is, perhaps, the best exposé of the facts and principles involved in this question to be found on record, with a direct and close application to the history of the veto power in this country, as well as of its origin, and of its use in other countries. This speech was delivered on the occasion of moving an amendment of the Constitution, not only to restrain the veto power, but to prohibit executive appointments of members of Congress, and to transfer the appointment of the Secretary of the Treasury from the executive to the legislative branch of the government. Mr. Clay also proposed that the president should be ineligible to a second term of office. The Constitution had made the Secretary of the Treasury the agent of Congress, and responsible to that branch of the government, by requiring that he should report to that body, and not to the president. But, in violation of the Constitution, General Jackson had taken the Treasury of the United States into his own hands, and it had virtually remained in the hands of the president since that time, by his control over the appointment of its head. There seemed no other way for Congress to recover this power, conferred on it by the Constitution, except by the amendment of that instrument proposed by Mr. Clay, or by some special legislation. If it could be reached by legislation, that was the better way. But the veto power is distinctly conferred by the Constitution, in unqualified terms, and it can only be abated, or restricted, or abolished, by an amendment. Having had so much experience of the abuse of this power, Mr. Clay thought it his duty to propose an amendment of the Constitution to restrain it, and to reduce it so far at least

that a majority in each House of Congress could pass a bill into law, over the president's objections. Mr. Clay's reasoning on this subject is exceedingly forcible, not to say irresistible; and the only wonder is, that such reasoning, in view of such facts, has not prevailed. It is a well-known matter of history, that the framers of the Constitution feared that the legislative faculties would prove too potent for the executive; whereas, in the practical operation of the government, the executive has overpowered the legislature, and is constantly making its encroachments in the same direction. It is generally as hopeless to obtain a two-third vote against the president's veto, on a greatly contested question, as to impeach the president; and the result is, that the executive, by gradual encroachment, has arrived at the position of being able to use the power of the initiative in legislation, whenever he shall desire it. The case has already frequently occurred, when Congress has either been obliged to legislate in obedience to the president's dictation, or not legislate at all, on certain questions, for fear of the veto held over their heads. Facts of this kind are enumerated by Mr. Clay, and they are abundant. Where is this executive power to end, if permitted to go on, except in the complete overthrow of the liberties of the people? The following speech of Mr. Clay is prophetic, in answer to this question. An American, at some future day, in reading this speech, may find that he is reading history, and wonder why the whole nation did not rise at the summons of the prophet, and guard against the predicted doom.]

Whatever, said Mr. Clay, might be the ultimate fate of the amendment which had just been read, or of the two other kindred amendments which he had the honor of offering at the same time with it, he should at least enjoy the consciousness of having discharged his duty in their presentation. He must regret, indeed, that the duty of presenting and of advocating their adoption by the Senate, had not devolved upon abler and more skillful hands; still, however, he considered the measure as one he was bound in conscience to present in his place, for the action of this body.

Nor had the performance of this duty been prompted, as some might suppose, and as had been suggested in certain quarters, by any recent exercise of the power to which the resolution has reference; yet, he was free to confess, that although the subject was one which had long been in his mind, and on which he had thought much and deeply for years past, the course of recent events had certainly not tended to weaken, if it had not added much to the strength of his impressions on the general subject.

As far back as seven years ago, a worthy and lamented friend of his, from Maryland, now no more, had, in concert with himself, presented a proposition, the object of which had been to modify, and further to restrain the exercise by the executive, of this veto power. The drafting of the resolution, its presentation, and even the observations with which it was to be accompanied, all had been subjects of joint consultation and consideration between himself and that gentleman. He adverted to this fact for no other purpose than to repel the idea, if it were entertained in the mind of any who now heard him, that the amendment now under consideration, and the others which accompanied it, had been suggested by recent occurrences. As far back as June, 1840, on one of the most solemn occasions in which he had ever been called to address a popular assembly—he alluded to the time when he enjoyed the opportunity of addressing the friends of his youth, and the people of his native county of Hanover, on the subject of the duties to be looked for at the hands of the new whig administration, which was expected to come into power, in consequence of the glorious and universal triumph of the whig party at the then approaching election—he had placed emphatically, and in front of them all, that which formed the subject of the present resolution. After speaking of the veto power generally, and more particulary of its exercise by a late President of the United States, the speech proceeded to say:

The first, and, in my opinion, the most important object which should engage the serious attention of a new administration, is that of circumscribing the executive power, and throwing around it such limitations and safeguards as will render it no longer dangerous to the public liberties.

Whatever is the work of man, necessarily partakes of his imperfections; and it was not to be expected, that, with all the acknowledged wisdom and virtues of the framers of our Constitution, they could have sent forth a plan of government so free from all defect, and so full of guaranties, that it should not, in the conflict of embittered parties, and of excited passions, be perverted and misinterpreted. Misconceptions, or erroneous constructions of the powers granted in the Constitution, would probably have occurred, after the lapse of many years, in seasons of entire calm, and with a regular and temperate administration of the government; but, during the last twelve years, the machine, driven by a reckless charioteer, with frightful impetuosity, has been greatly jarred and jolted, and it needs careful examination, and thorough repair.

With this view, therefore, to the fundamental character of the government itself, and especially of the executive branch, it seems to me that, either by amendments of the Constitution, when they are necessary, or by remedial legislation, when the object falls within the scope of the powers of Congress, there should be,

First, a provision to render a person ineligible to the office of President of the United States after a service of one term. Much observation and deliberate reflection have satisfied me, that too much of the time, the thoughts, and the exertions of the incumbent, are occupied, during his first term, in securing his re-election. The public business, consequently, suffers; and measures are proposed or executed with less regard to the general prosperity than to their influ-

ence upon the approaching election. If the limitation to one term existed, the president would be exclusively devoted to the discharge of his public duties: and he would endeavor to signalize his administration by the beneficence and wisdom of its measures.

Secondly, that the veto power should be more precisely defined, and be subjected to further limitations and qualifications.

Thus, it would be perceived by the Senate, that whatever truth or soundness there might be in the opinion which he had embodied in the resolution now submitted to the Senate, it was an opinion long since deliberately formed and expressed, and one which had often since been considered and reviewed, unprompted by any of those recent occurrences to which it might otherwise have been supposed to owe its origin.

The particular amendment now before the Senate for its consideration, and to which he should speak before he more briefly adverted to the others which accompanied it, was that which related to the veto power. And while on this subject of redeeming the pledge which was, in some sort, given by him as one of the humblest members of that party which had not long since so signally triumphed, he hoped the Senate would allow him, in all truth and sincerity, to say, that he desired to see a party, when it came into power, redeem the pledges and fulfill the promises it made when out of power, and not exhibit that disgraceful spectacle so often witnessed in the political history of other nations, of professing one set of principles, and employing them as a means toward getting into power, and then, when successful in obtaining their wishes, turn round, forget all they had said and promised, and go on to administer the government just as their predecessors had done. He could assure gentlemen, that, on the questions of restraining and limiting executive power, on the necessity of an economical administration of the government, on regulating the dismissing power of the president, on securing a fair and just responsibility in all the departments; in a word, on every great question of national policy to which the party to which he considered himself as belonging were pledged to the people and to the world, they would find him, on all occasions during the short time in which he expected to remain a member of the body, heartily ready to co-operate in carrying out into practice all they had avowed in principle.

It was his purpose to go but very briefly into the history and origin of the veto power. It was known to all to have originated in the institution of the tribunitian power in ancient Rome; that it was seized upon and perverted to purposes of ambition, when the empire was established under Augustus; and that it had not been finally abolished until the reign of Constantine. There could be no doubt that it had been introduced from the practice under the empire, into the monarchies of Europe, in most of which, in some form, and under some modification or other, it was now to be found. But, although it existed in the national codes, the power had not, in the case of Great Britain, been exercised for a century and a half

past; and, if he was correctly informed on the subject, it had, in the French monarchy, never been exercised at all. During the memorable period of the French Revolution, when a new Constitution was under consideration, this subject of the veto power had been largely discussed, and had agitated the whole country. Every one must recollect how it had been turned against the unfortunate Louis XIV., who had been held up to the ridicule of the populace under the title of "Monsieur Veto," as his wife, the queen, had been called "Madame Veto;" and, although after much difficulty, the power had finally found a place in the Constitution, not a solitary instance had occurred of its actual exercise. Under the colonial state of this country, the power was transplanted, from the experience which had been had of it in Europe, to the laws relating to the colonies, and that in a double form; for there was a veto of the colonial governor, and also a veto of the crown. But what was thought of this power by the inhabitants of these States, when rising to assert their freedom, might be seen in the words of the instrument in which they asserted their independence. At the head of all the grievances stated in that paper, as reasons for our separation from Great Britain, was placed the exercise of this very power of the royal veto. Speaking of the king, the Declaration of Independence employed this language:

"He has refused his assent to laws the most wholesome and necessary for the public good. He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operations, till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them."

No doubt, the idea of ingrafting this power upon our own Constitution, was adopted by the convention, from having always found it as a power recognized in European governments, just as it had been before derived by them from the practice and history of Rome. At all events, the power was inserted as one feature, not only in the general Constitution of the federal government, but also in the Constitutions of a portion of the States. Fifty years had now elapsed since the federal Constitution was formed, and it was no derogation to the wisdom and patriotism of the venerable men who framed it, now to say that the work of their hands, though as perfect as ever had proceeded from human hands, was, nevertheless, not absolutely so; because that was what nothing that sprung from man had ever been. But now, after the lapse of half a century, it was interesting to pause, to look back, to review the history of that period, and to compare the predictions of those who then looked into the future, with the actual results of subsequent experience. Any one at all acquainted with the cotemporaneous history of the Constitution, must know, that one great radical error, which possessed the minds of the wise men who drew up that instrument, was, an apprehension that the executive department of the then proposed government would be too feeble to contend successfully in a

struggle with the power of the Legislature; hence, it was found that various expedients had been proposed in the convention, with the avowed purpose of strengthening the executive arm; one of which went so far as to propose that the president should be chief magistrate for life. All these proposals had their origin in the one prevailing idea—that of the weakness of the executive, and its incompetence to defend itself against the encroachments of legislative domination and dictation.

Now, let any man look at the actual working of the machine they constructed, and see whether the anticipations which haunted their minds on this subject had been realized or falsified by the subsequent political history of this government. Let him see, whether the executive department was the weak spot in the system. Much had been said about the encroachments of the federal government on the governments of the States, from which complaints had arisen what was called the States-rights party, and its opposite; but an examination of the facts of the case would demonstrate, that no solitary instance had yet occurred of any such encroachments by the general government; but, on the contrary, Mr. Clay could demonstrate, were this the proper time or occasion for doing so, that there had been an abandonment by that government of the exercise of its own just powers, in relation to the States, and this to such an extent, that the existing state of the country presented very much the aspect that the old confederation had once done, with all its weakness and imbecility.

But while there had been no such thing in practice as an encroachment by the federal upon the State governments, there had been, within the federal government itself, a constant encroachment by the executive upon the legislative department.

First, it attacked the treaty-making power. None could now read the language of the Constitution, without at once coming to the conclusion, that the intention of the authors of that instrument was, that the Senate should be consulted by the president, not merely in the ratification, but in the inception, of all treaties; that, in the commencement of the negotiations, the instructions of the ministers appointed to treat, the character and provisions of the treaty, the Senate should be consulted, and should first yield its assent. And such had, in fact, been the interpretation put upon the treaty-making power, in the first and purest years of our government. Every one must recollect the early history of the exercise of the power, and the high sanction for such a usage. The first president had been wont to come to the Senate, there to propose a foreign mission, and to consult with his constitutional advisers, and the members of the Senate, on the instructions to be given to the minister who should be sent. But this practice has since been abandoned. The president now, without a word of consultation with the Senate, on his own mere personal sense of propriety, concluded a treaty, and promised to the foreign power its ratification; and then after all this had been done, and the terms of the treaty agreed upon, he, for the first time, submitted it to the Senate for ratification. Now, every

one must see, that there was a great difference between rejecting what had been already actually done, and refusing to do that thing if asked beforehand. All must feel, that they often gave their official assent to what they never would have sanctioned, but for the consideration that the treaty was already concluded, and that the faith of the nation was in some sort pledged for its ratification. Another consequence of this executive encroachment, was one from which foreign powers often experienced great inconvenience; he meant the amendments of treaties by the Senate, after they were at length submitted. So great had the inconvenience from this source been, that, in more recent treaties, it had come to be the practice to insert, in the body of the treaty itself, a provision against all alteration; so that it must be ratified in its existing form, or not ratified at all.

The next executive encroachment he should notice, was that which occurred in the dismissal from office of persons appointed by and with the consent of the Senate. The effect of this practice was virtually to destroy all agency and co-operation of the Senate, in such appointments. Of what avail was it that the Senate should to-day solemnly ratify and confirm the appointment of an individual to an office under the government, when the president could to-morrow reverse the effect of their act by his mere breath? Every one knew that the power of removal had been grossly perverted. In the early days of the Constitution, it had been maintained, that that power could be exercised only in case of malfeasance or misfeasance in office; and that the president who should dare to employ it for any other end, would subject himself to impeachment. But our history and experience have gone to show, that this liability to impeachment was a mere scarecrow, and that it could never have any practical effect in a popular government, constituted as ours was, and in a country politically divided as ours was ever like to be. By the free exercise of this power of removal, the Senate had lost its practical influence on the whole subject of appointment to office. Instance after instance had occurred, where an individual had been dismissed by the executive, whom the Senate would gladly have replaced in office, but whom they were unable to retain there, and were therefore compelled to sanction the nomination of a successor. The actual result of such a state of things was, he repeated it, that the co-operation of the Senate with the president, in the matter of appointments, had been almost completely nullified for years past. Indeed, so perfectly was this understood, that when the Senate were deliberating with closed doors, on executive nominations, Mr. Clay frequently walked out of the chamber. Deliberation, in such a case, was one of the idlest things in the world, because every one knew that all resistance must be unavailing. And even should the objections against the nominee be so gross and undeniable that resistance to his appointment should succeed, they might generally calculate on another nomination, not more to the taste of the Senate; and when at length the office was filled, the tenure of the incumbent was not on the joint will of the president and Senate

acting together, but upon the single will, upon the mere arbitrary breath, of one man.

Mr. Clay said, it was not his purpose to go into all the details of these encroachments by the executive, upon the constitutional powers and prerogatives of a single legislative branch of the government. He would now pass to its attacks on the powers of the Congress of the United States.

And the first instance of this to which he should refer, was the creation of officers and the designation of their salaries, without the consent of Congress, or any consultation with it. Another, and a more formidable instance, was to be found in the assumption, within the last few years, of the purse of the nation. He alluded, as every body must understand, to the seizure made by a late executive, of the public deposits placed by law in the bank of the United States—a removal which had been effected under the avowed claim of power to employ the prerogative of removal, as a means to compel subordinate executive officers to comply with the will of the president, on the principle that the executive was a unit, and that a single will must control the entire executive department. This seizure of the public deposits had yet been unprovided against; the congressional power to control them had been unresumed, and thus a state of things was permitted to continue, by which the nation was virtually placed at the feet of the executive.

Let not gentlemen mock him, by talking about the impossibility of the president's drawing money out of the treasury, except under an appropriation by Congress. Let them not tell him of the responsibility of public officers; let them look at facts; let them look at what had actually occurred, on the removal of two or three Secretaries of the Treasury, in order to accomplish this very seizure of the public treasure; and then let them look at the dismissal of a countless host of subordinate officers, because they did not happen to hold the same political opinions that were held by the president. Of what avail were laws? The president had nothing to do but say to his secretary, Issue your warant for such a sum of money, and direct the register and comptroller to sign it, and if they should talk about a regard for their oaths, and boggle at obeying, tell them to do what I command them, and if not, I will find men who will. And he would here say to all those who professed to be desirous of guarding against such abuses of trust, that unless it were done by an amendment of the Constitution, or by a revival and resumption of the power already possessed by Congress, under the Constitution, they never could effect their purpose. All efforts, all devices, all guards, all guaranties, all attempts of whatever kind, to separate the purse from the sword, would prove in practice utterly vain and ineffectual. There was a third instance of this encroachment, which he was authorized by facts to state, but on which he should not at this time dwell. Not only had the purse of the nation been seized; not only did it still remain in the hands of the president, but the nation had seen armies raised, by executive mandate, not only without authority or

shadow of authority of law, but, as in the case of the Florida volunteers, after a law had been asked for, and positively refused. Other instances might be cited, in which a military force had been raised, without the sanction of Congress.

Without, therefore, going any further, Mr. Clay said, that he thought a careful review of the operations of this government, down to the present time, would fully demonstrate that, while it had made no encroachment on the States, there had been a constant encroachment by the executive on the legislative authority.

And was not this in the nature of things? The executive branch of the government was eternally in action; it was ever awake; it never slept; its action was continuous and unceasing, like the tides of some mighty river, which continued flowing and flowing on, swelling, and deepening, and widening, in its onward progress, till it swept away every impediment, and broke down and removed every frail obstacle which might be set up to impede its course. Let gentlemen look at all history, and they would find that it had ever been so. The legislative branch of government met only periodically; its power lay in its assembling and acting; the moment it adjourned, its power disappeared; it was dissipated, gone; but there stood the president at the head of the executive department, ever ready to inforce the law, and to seize upon every advantage which presented itself, for the extension and augmentation of its power.

And now he would, upon principle, examine for a few moments the motives which might be supposed to have actuated the members of the convention, in conferring upon the executive this veto power. Let us throw ourselves back to the period in which they lived and acted, and then institute a comparison between the expectations in which they had indulged, and the actual facts, as they had since occurred.

On principle, certainly, the executive ought to have no agency in the formation of laws. Laws were the will of the nation authoritatively expressed. The carrying of those laws into effect was the duty which ought to be assigned to the executive, and this ought to be his sole duty, for it was an axiom in all free governments that the three great departments, legislative, executive, and judicial, should ever be kept separate and distinct. And a government was the most perfect when most in conformity with this fundamental principle. To give, then, to the executive, any agency in the ascertainment and expression of the will of the nation, was so far a violation of this great leading principle. But it was said that the framers of our Constitution had, nevertheless, been induced to place the veto upon the list of executive powers, by two considerations; the first was a desire to protect the executive against the power of the legislative branch, and the other was a prudent wish to guard the country against the injurious effects of crude and hasty legislation. But where was the necessity to protect the executive against the legislative department? were not both bound, by their solemn oaths, to support the Constitution? The judiciary

had no veto. If the argument was a sound one, why was not the same protection extended to the judiciary also? Was there not ample security against the encroachments of the legislative power, in the absence of the veto? First, there was the solemn oath of office; then there was the authority of the judiciary; then there was the responsibility of individual members to the people, and this responsibility continually kept up by a frequent appeal to the people; and, lastly, there was the ultimate conflict of the president and the legislature before the grand tribunal of the nation itself, in case of any attempt, by the legislature, to deprive him of the rightful exercise of his authority. Besides, if a veto be necessary, as a defense against legislative power, why was there no veto against the highest discription of all legislation, the fundamental legislation by a convention? There was no veto there; there was no apprehension of hasty action; no necessity was recognized for the controlling will of one man to save the nation from the heedless acts of its own representatives. But in the case of ordinary legislation, why should such apprehensions be indulged? On this subject, experience was our safest guide. Now, Mr. Clay had taken the pains to look into the provisions of twenty-six State Constitutions, in relation to this matter of the veto, and the result was highly curious and interesting. The States were in this respect divided, as equally as their numbers would admit, into three distinct classes. Nine of them gave to the executive the veto power, unless controlled by two thirds of the legislature. Eight other States conferred the veto, but controlled it by a second veto of a majority, as was proposed in the amendment now under consideration. While the remaining nine States had not inserted the veto at all, and at the head of these stood one which had been called the mother of States—Virginia. Now some of these State Constitutions were of a date anterior to that of the Constitution of the United States itself. If there had been this very great danger of executive encroachment and of hasty legislation, one would suppose it would have been heard of in these nine States. Had any instance yet occurred to show that such a danger did exist? Mr. Clay had heard of none, read of none; and he put it to the advocates of this arbitrary and monarchical power, he put it especially to democrats, who, while they professed themselves, and he doubted not, honestly and conscientiously professed themselves, friends of the people, came out in the contest between monarchical prerogative on the one hand, and civil freedom on the other, as the avowed advocates of prerogative; he put it to all of them to tell, if such dangers both of encroachment and rashness as were pretended as a pretext for the veto did actually exist, how it happened that in the nine States he had named, during so long a period as had elapsed since their Constitutions were formed, no instances had occurred, either of encroachment by the legislature on the powers of the executive, or of such rash and hasty legislation as called for the restraint and safeguard of a single sovereign will.

Now, before he proceeded further, he invited gentlemen to form a just estimate of this veto power; to look at it; and see what it was; to ascertain what was its value, what it amounted to in the practical operations of government. He should not pretend to go into any inquiry as to its moral value, or to estimate its influence on the individual who exercised it, or the degree and extent to which, by means of it, in connection with a vast patronage, the president could sway the minds of other men, for that was a power which admitted of no estimate. He should confine himself to what might be called a mere numerical estimate of the amount of the veto power, and he would make this estimate by taking the numbers of the two Houses of Congress, as those Houses now stood. The Senate at present consisted of fifty-two members; of that number a majortiy consisted of twenty-seven; two thirds amounted to thirty-six. Supposing a law to be passed by a bare majority (and in all great and contested questions bills were wont to be passed by very small majorities), then there would be in its favor twenty-seven votes. The bill was submitted to the president, and returned by him with his veto. The force of the presidential veto could not be overturned but by thirty-six votes. Here, then, the veto in the hands of the president was equal in its effect upon legislation to nine senatorial votes. Mr. Clay dismissed all considerations of influence derived from his office, all the glitter and eclat of the president's high station, and all the persuasion directed to the interests of men by his vast patronage; all this he laid out of view, and looked merely at the numerical fact, that in the Senate the veto was equal to nine votes. And now in regard to the other branch. The House of Representatives consisted of two hundred and forty-two members; to constitute a majority required one hundred and twenty-two; two thirds amounted to one hundred and sixty-two. By looking at this difference, it would be seen, as in the case of the Senate, that the executive veto amounted in effect to forty representative votes.

Now Mr. Clay did not mean to say any thing in the least derogatory to the wisdom, or fairness, or integrity, or patriotism of any president of the United States. It was not necessary, and he was utterly unwilling, without necessity, to injure the feelings of any man. We had had six presidents who had previously been senators. They were able and eminent men; but he wished to inquire, whether any gentleman could show that their wisdom and other distinguished qualities had been so great as to be equal to the wisdom of nine other senators? Could it be shown that their patriotism, and intelligence, and integrity, were equal to those of forty members of the House of Representatives? If not, how did it happen that a man who, when in that chamber, and acting with his fellow-senators, had been considered upon a par with them, was no sooner transferred to the other end of the avenue, than his will became equal to that of nine senators and forty representatives? How, he asked, did this happen, and wherein was it just and right? Was it not sufficient, that this man, after his political apotheosis, should enjoy all the glitter, and distinction, and

glory attached to his office? Was it not enough that he wielded so vast and formidable an amount of patronage, and thereby exerted an influence so potent and so extensive? Must there be superadded to all, a legislative force equal to nine senators and forty members of the House of Representatives?

Again: let the subject be looked at in another point of view; and that was with reference to the balance of power among the States. Now, gentlemen might reason as they pleased about what a particular president would, or ought to do, but Mr. Clay would answer for it, that he would never forget, amid the splendor of his high station, the State from whence he came, the early associations, the friendly sympathies, the remembrance of honors, and all those other ties which bound every man, especially a public man, to the land and to the people among whom he had spent his youth and attained the honors of his manhood. All these considerations would operate as so many powerful motives to prefer, in the distribution of benefits, his own State before all others. Looking at this in a political view, was it right, was it just, to give to one particular State, in which the president happened to have been born, so great an advantage in the general competition as must be derived from nine senatorial and forty representative votes? Mr. Clay said, he did not mean to illustrate the remarks he had made about the influence of State partiality on the mind of a chief magistrate by reference to any particulars; his appeal was only to the general principles of human nature. The effect, to be sure, would be greater or less, as the mind of the chief magistrate might happen to be constituted. There might be some men who would be induced, by a chivalric sense of honor, even to do injustice to their own State, in the effort to avoid an unjust partiality; but there were other minds, all whose thoughts, and aims, and wishes, would be circumscribed by local interests and local attachments.

Mr. Clay had hitherto viewed the veto power simply in its numerical weight, in the aggregate votes of the two Houses; but there was another and far more important point of view in which it ought to be considered. He contended, that practically, and in effect, the veto, armed with such a qualification as now accompanied it in the Constitution, was neither more nor less than an absolute power. It was virtually an unqualified negative on the legislation of Congress. Not a solitary instance had yet occurred in which the veto once exerted had ever been overruled, nor was such a case likely to happen. In most questions where the veto could be exerted, there was always a considerable difference of opinion both in the country and in Congress as to the bill which had been passed. In such circumstances, when all the personal influence, the official patronage, and the reasoning which accompanied the veto, were added to the substantial weight of the veto itself, every man acquainted with human nature would be ready to admit, that if nothing could set it aside but a vote of two thirds in both Houses, it might as well have been made absolute at once.

But Mr. Clay was unable to dwell on this part of his subject, being warned by his feelings of a want of physical ability to go at large into the subject.

He now, however, approached another view of it, to which he would ask the serious and undivided attention of the Senate. The veto power professed to act only while the Legislature acted; then it was to terminate. Its effect was to be, to consummate legislation. The officer of government, in whose hands the Constitution placed a power so formidable, was supposed in theory to remain profoundly silent as to the passage of great measures of public policy, until they were presented to him in a finished form for his approbation and sanction.

This was the theory; but Mr. Clay contended, that really and in practice this veto power drew after it the power of initiating laws, and in its effect must ultimately amount to conferring on the executive the entire legislative power of the government. With the power to initiate and the power to consummate legislation, to give vitality and vigor to every law, or to strike it dead at his pleasure, the president must ultimately become the ruler of the nation.

When members, acting in their legislative capacity, knew and remembered that it was in the power of one man to arrest them in their legislative career, what was the natural tendency of such a state of things? On the established principles of our nature, how was this likely to work? Would not legislators, with gradually less and less attention to that delicacy, reserve, and official deference, which were ever due from one department of government toward the other, come at length to consult with the executive as to what law they might pass with the hope of his approbation? Would not this be the natural result? Independently of all those obvious and glaring considerations, which went to show that it must, Mr. Clay would point to numerous facts illustrative of the position; and if he went into them, it would be not with a view to complain, not with a desire to revive former contests, or to say a word which might rudely wound the feelings of any human being. But did not gentlemen recollect, how often, during the administration of an eminent individual, now in private life, intimations had been given beforehand, that a certain bill would be vetoed, if it were passed? And did they not remember various instances, in which the threat had been fulfilled? Take the experience of the last six months. Congress have passed two bills to establish a bank of the United States; bills, in all the provisions of which neither party concurred, and which would not have had the concurrence of twenty men in either House, had their minds been left uninfluenced by the expected action of the executive. Take, as a special instance, the famous sixteenth section of one of those bills. Mr. Clay was free to declare, that he did not know a solitary man among those who voted for the bill who would have voted for that section, but as a measure of conciliation, and in the hope that, so modified, the bill would receive the

sanction of the president. True, that expectation was not realized; the sacrifice was vainly made, but it had been made with a view to that end, and that alone. And so in regard to the second of those bills. That bill, as he was informed, came to Congress precisely as it had left the president's hand. So anxious had Congress been, to secure the approbation of the president, that, although almost every thing in the bill would either have been omitted, or amended by a majority, they took it as it came from the presidential hand, and passed it, letter for letter, as they received it. Without going further, did not this fact prove, that the possession of the veto power drew after it the power of initiating laws?

Take another case, in the bill now before the judiciary committee. Was there one man to be found, in either House of Congress, who would ever have proposed such a measure as the exchequer board provided in that bill? Yet, what had been the feeling? Had it not been this: must we go home without doing something? Had not the feeling been, we are bound by the veto power, we can not do what we would? Had not the feeling been, we must take what the executive offers, or get nothing? Yes. Already the idea was becoming familiarized to the minds of freemen, to men of only the second generation after the days of the Revolution, of submitting to the dictation of the executive, because without his assent they could do nothing. Mr. Clay warned the nation, that if this veto power was not arrested, if it were not either abolished, or at least limited and circumscribed, in process of time, and that before another such period had elapsed as had intervened since the Revolution, the whole legislation of this country would come to be prepared at the White House, or in one or other of the executive departments, and would come down to Congress in the shape of bills for them to register, and pass through the forms of legislation, just as had once been done in the ancient courts of France.

Then, to enable a nation of freemen to carry out their will, to set Congress free to speak that will, to redress the wrongs, and to supply the wants, of those that sent them, Mr. Clay again declared, that the veto power must be modified and restrained. If not, the question which Congress would have to decide would be, not what is the proper remedy for the existing grievances of the country, not what will restore the national prosperity—no; but what measure will be sanctioned by the chief magistrate.

Mr. Clay said, that, as he had not the bodily strength to dwell more at large on the general subject, he would now proceed to examine the objections which were urged against any further restrictions on this executive power.

There had gotten up a notion, of late years, that some curb was necessary upon the power of majorities, and that without this the safety of the country must be in danger. Now, on what grounds had the principle been founded, that in a free government the majority must govern? On two grounds. The first was of an intellectual and moral character. It

was right that, in a great public political partnership, the greater number should be satisfied with what was done, and that there was a greater chance of wisdom in complying with the will of the greater number. On the score of chances, some must govern, and who should it be? The minority? Why? Because they possessed more wisdom? Why were they likely to possess more wisdom? The second ground was physical in its aspect. It held, that the majority should be allowed to govern, because they would govern, having the physical force which would enable them to carry out their will. Now this doctrine, that minorities must govern, whether with or without the veto, was advanced by gentlemen who professed and called themselves members of the Jeffersonian school. But what was the doctrine of Mr. Jefferson himself, in regard to majorities, and so declared by him forty years ago? (Here Mr. Clay read an extract from Jefferson's works, in which it was broadly laid down, that an absolute acquiescence in the will of majorities was necessary in a free republican government.)

But there were some particular interests, and one especially, in regard to which the South felt great solicitude, which it was supposed would be more safe under the continuance of the veto power than without it. Now, in the first place, Mr. Clay saw no difference, in respect to safety, between that particular interest, and other interests of the country. If it were true that any one interest would be more secure under the veto power than without it, then all interests would be more secure; but if no security was produced by the veto, then that particular interest would not be more secure by the veto. Just as well might gentlemen from the North rise up and say, that the navigating interest (in regard to which they were, perhaps, more interested), would be more secure under the veto power, or the friends of any interest, northern, southern, or western, might fancy that it would be more secure. But the question came at last to this: Is the veto a necessary power, or is it not? If it is necessary, it is necessary to all; if not, it is necessary to none.

What was the security which the South would possess in this veto power? Sooner or later, the president would be in a majority himself. But if a majority of Congress should put itself in opposition to the interest of the South, neither presidents, nor vetoes, would avail to protect it. Its own resolution, its own valor, its own indomitable determination to maintain its rights against all men, these, and these alone, could, in that case, uphold southern interests.

Meanwhile the people of the South had all requisite guaranties. First, they had the sacred provisions of the Constitution; and then they had the character of our government as a confederacy, the existence of these interests long before the adoption of the Constitution, and the rights and duties of the government in regard to them, recognized and laid down by that sacred instrument. That was the security of the South. As one who himself lived where that peculiar interest existed, he possessed no security

from the existence of the veto power; none, none whatever. He felt himself secure in that mutual harmony, which it was alike the interest of all to cultivate, in the constitutional securities, and in the certainty of the disruption of the Union, as the inevitable result, the moment that interest should be assailed; in the capacity and determination of the South to defend herself at all hazards, and against all forms of attack, whether from abroad or at home. There, there, was the security, and not in this miserable despotic veto power of the President of the United States.

Mr. Clay went on to say, that the amendment which he had the honor of proposing to the Senate was encountered by arguments which were directly opposed to each other. He was told by one, that this power was a sacred thing, not lightly to be touched, but to be held in honor and veneration, as the choicest legacy left by our ancestors. He was told, on the other hand, by an honorable friend in his eye, that the amendment was vain, because it was a thing impossible ever to get the Constitution amended. He admitted it was a thing extremely difficult, requiring as it did the concurrence of eighteen States. But now, in reply to the first argument, those who regarded the Constitution as so worthy of preservation should be satisfied that no light and trivial amendment to it ever could be carried into effect; but if they were convinced that any amendment would be for the good of the country, it was their duty to put it forth, and submit it to public will. As to the second argument, he admitted, as he said, its full force. It was, indeed, extremely doubtful whether any gentleman here present would ever live to see the Constitution amended; but still it was the duty of every friend of his country to use proper efforts to have it improved. One attempt only had succeeded since those alterations were adopted, which took place immediately after the adoption of the Constitution itself. But this subject had been a good deal considered in the country, and if Mr. Clay had been successful in any degree in demonstating its expediency, neither class of objectors ought to persevere in opposing it.

As to another amendment, which had reference to the appointment of the Secretay of the Treasury, and the Treasurer of the United States, Mr. Clay admitted, that if his friend from Virginia (Mr. Archer), could succeed in establishing what Mr. Clay had attempted years ago to demonstrate—that Congress did possess the constitutional power to define the tenure of office, and to defend it against the power of dismission—there would, to be sure, be less necessity for making a special provision in regard to these two officers. But still, for greater security, Mr. Clay should prefer to have the appointment of the treasurer and secretary explicitly placed in the hands of Congress.

Mr. Clay observed, that if there was any sentiment in relation to public affairs, on which the people of this country had made up their minds, it was in regard to the necessity of limiting executive power. Its present overgrown character had long been viewed by them with apprehension.

The power was not personal, it was mainly official. You might take a mechanic from the avenue and make him president, and he would instantly be surrounded with power and influence, the power and influence of his office. It was very true, that the personal popularity of an incumbent might add much to his power, but the power itself was official, not personal, and its danger arose from its tendency and ability to accumulate. This was demonstrated by all past history, and was witnessed by all we saw around us. All these considerations called upon senators in the language of patriotism deeply to reflect on the consequences which might ensue, should not a power so great in itself, and so prone to increase, be subjected to some salutary limitation.

Let not gentlemen deceive themselves by names. The unpretending name, President of the United States, was no security against the extent or the abuse of power. The power assigned to a public individual did not depend on the title he might bear. The danger arose not from his name, but from the quantum of power at his command. Whether he were called emperor, dictator, king, liberator, protector, sultan, or president, of the United States, was of no consequence at all. Look at his power; that was what we had to guard against. The most tremendous power known to antiquity was the shortest in duration. It was not, then, in duration, any more than in title, that the danger lay, but in the magnitude of the power. This called for every safeguard. The dictatorship of Rome continued but for a brief period; yet, while it lasted, the whole State was in his hands. He did whatever he pleased, whether with life, liberty, or property. We had, then, no security against the power of the President of the United States in the shortness of the term for which he was chosen.

We often found very pathetic reflections in the writings of scholars, on the sad condition of kings; on the isolation of their thrones; on the effect of their station in removing them from the body of society, where no voice could reach them but the voice of flatterers, and where they were perpetually surrounded by the incense of adulation; and the chief ground of sympathy seemed to be, the impossibility that truth should reach their ears. It might be said, that this was true of kings, but did not apply on this side of the water; but let Mr. Clay tell those who thought so, that the actual condition of a President of the United States did not very widely differ from that of the monarchs of the old world. Here, too, the chief magistrate occupied an isolated station, where the voice of his country and the cries of its distress could not reach his ear. He, too, was surrounded by a cordon of favorites, flatterers, and fawns. Isolated in this District, with no embarrassments himself, the echoes of the public distress, if they reached his ear at all, reached it with a faint and feeble sound, being obstructed by those who surrounded his person, and approached him only to flatter. Facts were boldly denied, and all complaints attributed to a factious spirit. Now, he would ask, was a man thus separated, and thus surrounded, more likely to know the real sufferings, wants, and wishes, of his

countrymen, than the two hundred and forty-two men in the other House or the fifty-two men in this House, who came up here directly from their bosom, who shared in all their sufferings, who felt their wants, participated in their wishes, and sympathized with all their sorrows? That was the true question of the veto power. Now he thought if these things were duly considered (and he spoke not of this or that incumbent of the office, but of the circumstances of every one who filled it), it must be admitted, by every candid mind, that the responsibility was great of a man who should undertake, on his own private opinion, to resist and suppress the will of the nation, constitutionally expressed. It was a power not merely to annul the national will, as lawfully uttered by its own chosen representatives; but the power to initiate legislation itself, and to substitute for the will of the nation an alien will, neither of the nation, nor of its representatives.

But, he was physically unable to go further into this subject. The question was the old question, whether we should have, in this country, a power tyrannical, despotic, absolute, the exercise of which must, sooner or later, produce an absolute despotism, or a free representative government, with powers clearly defined and carefully separated? That was the true question to be decided.

There were other amendments accompanying this one, on which he wished to say a few words, but was to-day unable to do so. (Several offers had been made by gentlemen near him to move an adjournment, but he had persevered in declining them.)

That in relation to securing to Congress the appointment of the secretary and treasurer, was one of those reforms to which he considered the whig party solemnly pledged, as one of the measures proper to be pursued in the process of limiting executive power, but he could not now dwell upon it.

The other, relating to the appointment of members of Congress to office, only went, in effect, to carry out the principles already sanctioned by that article of the Constitution, which declares, that no member should be appointed to an office which had been created, or the emoluments of which had been increased with his concurrence. This went one step further, and declared, that no member should be appointed to an office which had been created with or without his concurrence, before or after he was a member. Whenever a man accepted an office which he was reasonably expected to hold, for a definite term, he should continue to hold it for that entire period, unless some very strong reason existed to the contrary, and which had not existed prior to his appointment.

There was one concluding remark on the amendment at present before the Senate, with which he would close what he had now to say. Although he admitted, that the principles he had laid down would, if carried fairly out, lead to the abolition of the veto altogether, as inconsistent with the fundamental axiom of free government, yet he was of opinion, that this, like other reforms, should be introduced slowly, and with circumspection,

without suddenly rushing from one extreme to another. Before the power should be utterly abolished, he deemed it prudent, that an experiment should be made in a modified form; and instead of requiring a majority of two thirds of both Houses to supersede the veto of the president, he thought it sufficient to require the concurrence of a majority of the whole number of members elected to each House of Congress.

He asked, whether this would not afford a sufficient security against the dangers of hasty legislation; and, in confirmation of its sufficiency, he would appeal to what had been the experience of all the States, where such a provision had been adopted. If a bill, after having undergone a full investigation and discussion, should pass both Houses, and be transmitted to the president for his signature, and he should return it with his veto, and the reasons for that veto, and it should then be again considered and fully discussed, in view of the objections urged against it by the executive (to say nothing of the whole influence derived from his office, and all that pertained to it), and still there should be found a clear majority, not of a quorum present, but of the total number of members chosen by the people, was not the presumption irresistible, that the bill ought to become a law? Surely, surely, this was a sufficient evidence of the will of the people, and an abundant safeguard against the hazardous consequences of hasty and ill-advised legislation.

EXPLANATION OF THE COMPROMISE TARIFF.

IN SENATE, FEBRUARY 18, 1842.

[Mr. Clay having been called upon, by a memorial from citizens of Pennsylvania, to explain his compromise tariff of 1833, made the following remarks.]

Two motives had operated on my mind, and I believe on the minds of others, to induce them to concur in the passage of the law (of 1833). The first was, to avert the calamity of civil war, the fire of which having been lighted up in South Carolina, threatened to extend its flames over the whole Union; the second was, to preserve from utter destruction the system of protection which Pennsylvania favored, when the law was passed; and I will repeat here, although it will not be long before I shall have an opportunity to go into an examination of the whole subject, that if the compromise act had not been adopted, the whole system of protection would have been swept by the board, by the preponderating influence of the illustrious man then at the head of the government (General Jackson), at the very next session after its enactment. With regard to the operation of this act, it is a great mistake to say that any portion of the embarrassments of the country has resulted from it. Other causes have contributed to this result, and it is to be attributed to the experiments which have been made upon the currency. The embarrassments are also to be attributed to the action of the States, which, by plunging into schemes of internal improvement, have contracted debts abroad, and thereby given a false and fictitious appearance to the prosperity of the country; and when their bonds depreciated, the evils under which they now suffer, as a consequence, ensued. As to the compromise, I have already said, that it is my purpose, as long as I shall remain in the Senate, to maintain, that the original principles of the act should be carried out faithfully and honestly; and if, in providing for an adequate revenue for an economical administration of the government, they can at the same time afford incidental protection, I shall be happy if both of these objects can be accomplished, but if it should be necessary, for the interest of Pennsylvania, to go beyond a revenue tariff, for the purpose of obtaining protection, then I hope that every senator and representative from that State, and those of other States,

and other interests, who think it necessary to transcend the revenue, will take up this subject of protection, and carry it to the point which their local interests demand.

In reply to Mr. Calhoun, Mr. Clay combated the idea of that senator, that the tariff had created the embarrassments which had existed for a long time in the country. He referred the senator to the discussions upon the tariff acts, for the purpose of showing that the reverse was true. If the senator would look to the tariff acts of 1824, '28, '32, and the compromise act of 1833, he would find that the revenues of the country had never been more from these acts, than the expenditure of government. The whole surplus revenue, about which so much had been heard, and which was attributed to the protective policy, originated exclusively in the extensive land sales, which had swelled in one year to the enormous amount of twenty-six millions of dollars. These excessive sales alone, had exceeded the amount of the surplus revenue which had ever been brought into the treasury.

Hereafter, I shall be able to show, that it will be impossible to stand by the twenty per centum, even by withdrawing the whole of the land fund from its appropriated purpose of distribution, and placing it in the treasury.

ON MEASURES OF PUBLIC POLICY.

IN SENATE, MARCH 1, 1842.

[As Mr. Clay was about to retire to private life, while important measures of public policy, under the new administration, were pending, and as, from his position and long experience as an American statesman, he was entitled to be heard on questions yet unsettled, he brought forward a series of resolutions, eleven in number, declaratory of the principles which he thought should guide the legislation of Congress—the most important of which were those relating to the tariff. The Compromise Tariff of 1833 was now approaching the term of its last change to the lowest rate of duty, twenty per cent., and the annual revenue in this last stage of the depression of duties had fallen to about twelve millions, which was obviously insufficient for the purposes of government. Mr. Clay thought that a revenue of twenty-six millions would be required—twenty-two millions for expenses of government, two to liquidate the national debt, and two for a reserved fund, or contingencies—and that the tariff should be altered with that view, still maintaining the principle of protection, which was saved in the tariff of 1833, although some have maintained that it was sacrificed then. But it was not. It was a compromise indeed; but, properly administered with a home valuation, the tariff of 1833 was protective on articles where it was most needed, even to the last stages of the depression of duties. More than half of the imports, however, were exempt from duty, and of course admitted on the free-trade platform; but a careful discrimination was applied for the protection of home industry. Such was the plan of Mr. Clay, as briefly explained in his short speech of the 18th of February. While the revenue had gone down to twelve millions, the expenses of government under Mr. Van Buren had gone up to near forty millions! and the nation, of course, was rapidly running in debt, by the issue of treasury notes on a peace establishment![*] Mr.

* The expenditures of 1838 were $39,455,438; and the sum of the four years' expenditure, under Mr. Van Buren, was $142,561,945.

Clay thought these expenditures might be reduced nearly one half, and he proposed to regulate the tariff so as to produce about twenty-six millions.

This speech is a book of instruction on the subjects of which it treats, to statesmen and people alike; and it is a book of history to the same extent. In an argument of this kind, Mr. Clay embodies more history than almost any other man; and the candor of his statements wins confidence. No man ever doubted Mr. Clay's truthfulness—hardly his fairness—and his investigations of facts were patient and thorough. No person can be thoroughly versed in American political history without reading Mr. Clay's speeches.]

Mr. President:

The resolutions which have just been read, and which are to form the subject of the present discussion, are of the greatest importance, involving interests of the highest character, and a system of policy which, in my opinion, lies at the bottom of any restoration of the prosperity of the country. In discussing them, I would address myself to you in the language of plainness, of soberness, and truth. I did not come here as if I were entering a garden full of flowers, and of the richest shrubbery, to cull the tea-roses, the japonicas, the jasmins, and woodbines, and weave them into a garland of the gayest colors, that, by the beauty of their assortment, and by their fragrance, I may gratify fair ladies. Nor is it my wish—it is far, far from my wish—to revive any subjects of a party character, or which might be calculated to renew the animosities which unhappily have hitherto prevailed between the two great political parties in the country. My course is far different from this; it is to speak to you of the sad condition of our country; to point out not the remote and original, but the proximate, the immediate causes which have produced, and are likely to continue, our distresses, and to suggest a remedy. If any one, in or out of the Senate, has imagined it to be my intention, on this occasion, to indulge in any ambitious display of language, to attempt any rhetorical flights, or to deal in any other figures than figures of arithmetic, he will find himself greatly disappointed. The farmer, if he is a judicious man, does not begin to plow till he has first laid off his land, and marked it off at proper distances, by planting stakes, by which his plowmen are to be guided in their movements; and the plowman, accordingly, fixes his eye upon the stake opposite to the end of the destined furrow, and then endeavors to reach it by a straight and direct furrow. These resolutions are my stakes.

But, before I proceed to examine them, let me first meet and obviate certain objections, which, as I understand, have been or may be urged against them generally. I learn that it is said of these resolutions, that

they present only general propositions, and that, instead of this, I should at once have introduced separate bills, and entered into detail, and shown in what manner I propose to accomplish the objects which the resolutions propose. Let me here say, in reply, that the ancient principle and mode of legislation which has ever prevailed from the foundation of this government, has been to fix first upon the general principles which are to guide us, and then to carry out those principles by detailed legislation. Such has ever been the course pursued, not only in the country from which we derive our legislative institutions, but in our own. The memorable resolution offered in the British House of Commons, by the celebrated Mr. Dunning, is no doubt familiar to the mind of every one—that "the power of the crown (and it is equally true of our own chief magistrate) had increased, was increasing, and ought to be diminished." When I was a member of another legislative body, which meets in the opposite extremity of this capitol, it was the course, in reference to the great questions of internal improvement, and other leading measures of public policy, to propose specific resolutions, going to mark out the principles of action which ought to be adopted, and then to carry out those principles by subsequent enactments. Another objection is urged, as I understand, against one of these resolutions, which is this: that, by the Constitution, no bill for raising revenue can originate anywhere but in the House of Representatives. It is true, that we can not originate such a bill; but, undoubtedly, in contemplating the condition of the public affairs, and in the right consideration of all questions touching the amount of the revenue, and the mode in which it shall be raised, and involving the great questions of expenditure and retrenchment, and how far the expenses of the government may safely and properly be diminished, it is perfectly legitimate for us to deliberate and to act as duty may demand. There can be no question but that, during the present session of Congress, a bill of revenue will be sent to us from the other House; and if, when it comes, we shall first have gone through with a consideration of the general subject, fixing the principles of policy proper to be pursued in relation to it, it will greatly economize the time of the Senate, and proportionably save a large amount of the public money.

Perhaps no better mode can be pursued of discussing the resolutions I have had the honor to present, than to take them up in the order of their arrangement, as I presented them to the Senate, after much deliberate consideration.

The first resolution declares,

"That it is the duty of the general government, for conducting its administration, to provide an adequate revenue within the year, to meet the current expenses of the year; and that any expedient, either by loan or treasury notes, to supply, in time of peace, a deficiency of revenue, especially during successive years, is unwise, and must lead to pernicious consequences."

I have heard it asserted, that this resolution is but a truism. If so, I

regret to say, that it is one from which governments too often depart, and from which this government especially has departed during the last five years. Has an adequate revenue been provided within each of those years, to meet the necessary expenses of those same years? No; far otherwise.

In 1837, at the called session, instead of imposing the requisite amount of taxes on the free articles, according to the provisions of the compromise act, what was the resort of the administration? To treasury notes. And the same expedient of treasury notes was ever since adopted, from year to year, to supply the deficit accruing. And, of necessity, this policy cast upon the administration succeeding, an unascertained, unliquidated debt, inducing a temporary necessity on that administration, to have resort to the same means of supply.

I do not advert to these facts with any purpose of crimination or recrimination. Far from it. For we have reached that state of the public affairs when the country lies bleeding at every pore, and when, as I earnestly hope and trust, we shall, by common consent, dispense with our party prejudices, and agree to look at any measure proposed for the public relief as patriots and statesmen. I say, then, that during the four years of the administration of Mr. Van Buren, there was an excess of expenditure over the income of the government, to the amount of between seven and eight millions of dollars; and I say that it was the duty of that administration, the moment they found this deficit to exist in the revenue, to have resorted to the adequate remedy by laying the requisite amount of taxes on the free articles to meet and to supply the deficiency.

I shall say nothing more on the first resolution, because I do hope that, whatever the previous practice of this government may have been, there is no senator here who will hesitate to concur in the truth of the general propositions it contains.

The next three resolutions all relate to the same general subjects—subjects which I consider much the most important of any here set forth; and I shall, for that reason, consider them together.

The second resolution asserts,

"That such an adequate revenue can not be obtained by duties on foreign imports, without adopting a higher rate than twenty per centum, as provided for in the compromise act, which, at the time of its passage, was supposed and assumed as a rate that would supply a sufficient revenue for an economical administration of the government."

The third resolution concludes,

"That the rate of duties on foreign imports ought to be augmented beyond the rate of twenty per centum, so as to produce a net revenue of twenty-six millions of dollars—twenty-two for the ordinary expenses of government, two for the payment of the existing debt, and two millions as a reserved fund for contingencies."

The fourth resolution asserts,

"That, in the adjustment of a tariff to raise an amount of twenty-six millions of revenue, the principles of the compromise act generally should be adhered to; and that especially a maximum rate of ad valorem duties should be established, from which there ought to be as little departure as possible."

The first question which these resolutions suggest, is this: what should be the amount of the annual expenditures of this government? Now, on this point, I shall not attempt, what is impossible, to be exact and precise in stating what that may be. We can only make an approximation. No man, in his private affairs can say, or pretends to say, at the beginning of the year, precisely what shall be the amount of his expenses during the year; that must depend on many unforeseen contingencies, which can not, with any precision, be calculated beforehand; all that can be done is to make an approximation to what ought or what may be the amount. Before I consider that question, allow me to correct, here, an assertion made first by the senator from South Carolina (Mr. Calhoun), and subsequently by the senator from Missouri, near me (Mr. Linn), and I believe by one or two other gentlemen, namely, that the whig party, when out of power, asserted that, if trusted with the helm, they would administer this government at an amount of expenditure not exceeding thirteen millions of dollars. I hope, if such an assertion was actually made by either or all these gentlemen, that it will never be repeated again, without resorting to proof to sustain it. I know of no such position ever taken by the whig party, or by any prominent member of the whig party. Sure I am that the party generally pledged itself to no such reduction of the public expenses—none.

And I again say that I trust, before such an assertion is repeated, the proofs will be adduced. For in this case, as in others, that which is asserted and reiterated, comes at last to be believed. The whig party did promise economy and retrenchment, and I trust will perform their promise. I deny (in no offensive sense) that the whig party ever promised to reduce the expenditures of this government to thirteen millions of dollars. No; but this was what they said: during the four years of the administration of Mr. Adams, the average amount of the public expenditure was but thirteen millions, and you charged that administration with outrageous extravagance, and came yourselves into power on promises to reduce the annual expenditure; but, having obtained power, instead of reducing the public expenses, you carried them up to the astonishing amount of near forty millions. But, while the whigs never asserted that they would administer the government with thirteen millions, our opponents, our respected opponents, after having been three years in power, instead of bringing the expenses below the standard of Mr. Adams's administration, declared that fifteen millions was the amount at which the expenditures should be fixed.

This was the ground taken by Mr. McLane, when he was at the head of the treasury. I have his report before me; but as the fact, I presume, will not be denied, I forbear to read from it. He suggests, as the fit amount to be raised by the tariff he had proposed, the sum of fifteen millions of dollars as sufficient to meet the wants of the government.

I hope now I have shown that the whig party, before they obtained power, never were pledged to bring down the public expenses, either to thirteen or to fifteen millions. They were pledged, I admit, to retrench unnecessary expenditures, and to make a reasonable deduction, whenever it could properly be made, consistently with the public service; that process, as I understand, is now going on in both Houses, and I trust the fruits will be seen before the end of the present session.

Unpledged, therefore, as the whig party was, as to any specific amount, the question recurs, at what sum can the expenses of the government be now fixed?

I repeat that the exact amount is difficult to be ascertained. I have stated it in the resolution I now offer, at twenty-two millions; and I shall soon show how I have arrived at the amount. But, before I do that, allow me to call the attention of the Senate to the expenditures of the preceding administration; for, in attempting to fix the sum for the future, I know of no course but to look back upon the experience of the past, and then to endeavor to deduce from it the probable amount of future expenditure. What, then, were the expenditures of the four years of the past administration?

In 1837 the amount was	$37,265,037 15
In 1838 it was	39,455,438 35
In 1839 "	37,614,936 15
In 1840 "	28,226,533 81
Making an aggregate of	$142,561,945 46

Which gives us an average per year of thirty-five million six hundred and forty thousand four hundred and eighty-six dollars and thirty-eight cents.

The sum I have proposed is only twenty-two millions, which deducted from thirty-five, as above, leaves a reduction of thirteen million six hundred and forty thousand dollars—being a sum greater than the whole average expenditure of the extravagant and profligate administration of Mr. Adams, which they told us was so enormous that it must be reduced by a great "retrenchment and reform."

I am not here going to inquire into the items which composed the large expenditures of the four years of Mr. Van Buren's administration. I know what has been said, and will again be said, on that subject—that there were many items of extra expenditure, which may never occur again. Be it so; but do we not know that every administration has its extras, and that these may be expected to arise, and will and must arise, under every

administration beneath the sun? But take this also into view in looking at the expenses of that administration: that less was expended on the national defense, less in the construction or repair of fortifications, less for the navy, and less for other means of repelling a foreign attack, than, perhaps, ought to have been expended. At present we are all animated with a common zeal and determination on the subject of defense; all feel the necessity of some adequate plan of defense, as well upon the ocean as the land, and especially of putting our navy and our fortifications in a better state to defend the honor and protect the rights of the nation. We feel this necessity, although we all trust that the calamity of a war may be averted. This calls for a greater amount of money for these purposes than was appropriated under Mr. Van Buren's administration; beside which, in the progress of affairs, unforeseen exigences may arise, and do constantly occur, calling for other appropriations needed, which no man can anticipate. Every ministry in every government, every administration of our own government, has its extraordinaries and its contingences; and it is no apology for Mr. Van Buren's administration to say, that the circumstances which occasioned its expenditures were extraordinary and peculiar. Making all the allowances which its warmest friends can ask, for the expenses of the inglorious war in Florida—a contest which has profusely wasted not only the resources of the treasury, but the best blood of the nation—making the amplest allowance for this and for all other extras whatever, the sum expended by the last administration still remains to be far, far beyond what is proposed in these resolutions, as sufficient for the present, and for years to come. It must, in candor, be conceded that this is a very great diminution of the national expenditure; and such, if nothing else were done, would redeem the pledge of the whig party.

But let us now consider the subject in another light. Thirteen millions was the average annual amount of expenditure under Mr. Adams's administration, which terminated thirteen years ago. I should be authorized, therefore, to take the commencement of his administration, in 1825, being a period of seventeen years, in making a comparison of the progressive increase of the national expenditures; or, at all events, adding one half of Mr. Adams's term, to take the period as running fifteen years back; but I shall not avail myself of this perfectly fair calculation; and I will therefore say, that at the end of thirteen years, from the time when the expenditures were thirteen millions, I propose that they be raised to twenty-two millions. And is this an extraordinary increase for such a period, in a country of such rapid increase and development as this is? What has occurred during this lapse of time? The army has been doubled, or nearly so; it has increased from a little over six thousand men to twelve thousand. We have built six, eight, or ten ships of the line (I do not recollect the precise number); two or three new States have been added to the Union; and two periodical enumerations have been made of the national population; beside which, there have been, and yet are to be, vast expend-

itures on works of fortification and national defense. Now, when we look at the increase in the number of members in both Houses of Congress, and consider the necessary and inevitable progress and growth of the nation, is it, I ask, an extraordinary thing, that at the end of a period of thirteen years, our expenditures should increase from thirteen to twenty-two millions? If we take the period at seventeen years, (as we fairly may) or at but fifteen years, the increase of expenses will be found not to go beyond the proportional increase of our population within the same period. That increase is found to be about four per centum annually; and the increase of government expenditures, at the rate above stated, will not exceed that. This is independent of any augmentation of the army or navy, of the addition of new States and Territories, or the enlargement of the numbers in Congress. Taking the addition, at the end of thirteen years, to be nine millions of dollars, it will give an annual average increase of about seven hundred thousand dollars. And I think that the government of no people, young, free, and growing as is this nation, can, under circumstances like ours, be justly charged with rashness, recklessness, or extravagance, if its expenses increase but at the rate of seven hundred thousand dollars per annum. If our posterity, after their numbers shall have swelled to one hundred millions, shall find that their expenses have augmented in no greater ratio than this, they will have no cause of complaint of the profuseness or extravagance of their government.

But, it should be recollected, that while I have fixed the rate of expenditure at the sum I have mentioned, namely, twenty-two millions, this does not preclude further reductions, if they shall be found practicable, after existing abuses have been explored, and all useless or unnecessary expenditures have been lopped off.

The honorable senator from South Carolina, (Mr. Calhoun) has favored us, on more occasions than one, with an account of the reforms he effected, when at the head of the War Department of this government; and no man, certainly, can be less disposed than I am to deprive him of a single feather which he thinks he put in his cap by that operation. But what does he tell us was his experience in this business of retrenchment? He tells us what we all know to be true—what every father, every householder, especially, finds to be true in his own case—that it is much easier to plunge into extravagance than to reduce expenses; and it is pre-eminently true of nation. Every nation finds it far easier to rush into an extravagant expenditure of the money intrusted to its public agents, than to bring down the public expenditures from a profuse and reckless to an economical standard. All useful and salutary reforms must be made with care and circumspection. The gentleman from South Carolina admits, that the reforms he accomplished took him four years to bring about. It was not till after four years of constant exertion that he was enabled to establish a system of just accountability, and to bring down the expenses of the army to that average per man, to which they were at length reduced. And now, with

all his personal knowledge of the difficulties of such a task, was it kind or fair in his associates, to taunt us, as they have done, by already asking, "Where are the reforms you promised to accomplish when you were out of power?"

[Mr. Calhoun here rose to explain, and observed, that what he had again and again said, on the subject of reforms, was no more than this, that it was time the promised reforms should begin; and that was all he now asked.]

Very well; if that is all he asks, the gentleman will not be disappointed. We could not begin at the extra session; it could not then reasonably be expected of us; for what is the duty of a new administration, when it first comes into the possession of power? Its immediate and pressing care is to carry on the government; to become acquainted with the machine; to look how it acts in various parts, and to take care that it shall not work injuriously to the public interest. They can not, at once, look back at the past abuses; it is not practicable to do so; it must have time to look into the pigeon-holes of the various bureaux, to find out what has been done, and what is doing. Its first great duty is to keep the machine of government in regular motion. It could not, therefore, be expected that Congress would go into a thorough process of reform at the extra session. Its peculiar object then was to adopt measures of immediate and indispensable relief to the people, and to the government. Beside which, the subsequent misfortunes of the whig party were well known. President Harrison occupied the chair of state but for a single month; and the members of his cabinet left it under circumstances which, let me here say, do them the highest honor. I do not enter upon the inquiry whether the state of things which they supposed to exist did actually exist or not; but, believing it to exist, as they did, their resignation presents one of the most signal examples of the sacrifice of the honors and emoluments of high station, at great expense and personal inconvenience and of noble adherence to honor and good faith, which the history of any country can show. But I may justly claim, not only on behalf of the retiring secretaries, but for the whole whig party, a stern adherence to principle, in utter disregard of the spoils doctrine, and of all those baser motives and considerations which address themselves to some men with so great a power. I say, then, that the late extra session was no time to achieve a great, and extensive, and difficult reform throughout the departments of the government; a process like that can be attempted only during a regular session of Congress; and do not gentlemen know that it is now in progress, by the faithful hands to which it has here and elsewhere in Congress been committed? and that an extraordinary committee has been raised in this body, insomuch that, to effect it, the Senate has somewhat shot from its usual and appropriate orbit, by establishing a standing committee of retrenchment? If the honorable senator from South Carolina took four years to bring down the expenses of the War Department, when

under his own immediate superintendence, I may surely, with confidence, make my appeal to his sense of justice and liberality, to allow us, at least, two years before he reproaches us with a failure in a work so much more extensive.

I will now say, that, in suggesting the propriety of fixing the annual average expenditure of this government at twenty-two millions of dollars, from this time, and for some years to come, it is not my purpose to preclude any further reductions of expense, by the dismissal of useless officers, the abolition of useless institutions, and the reduction of unnecessary or extravagant expenditures. No man is more desirous than I am of seeing this government administered at the smallest possible expense consistent with the duties intrusted to us, in the management of our public interests, both at home and abroad. None will rejoice more, if it shall be found practicable to reduce our expenses to eighteen, to fifteen, or even to thirteen millions. None, I repeat it, will rejoice in such a triumph of economy more heartily than I. None, none.

But now allow me to proceed to state by what process I have reached the sum of twenty-two millions, as proposed in the resolution I have offered.

The Secretary of the Treasury has presented to us estimates for the current year, independent of permanent expenses, of a million and a half, amounting to about twenty-four and a half millions, which may be stated under the following heads, namely:

For civil list, foreign intercourse, and miscellaneous,	$4,000,987 85
For the war department, including all branches,	11,717,991 27
Naval service,	8,705,579 83
	$24,424,358 95

And here let me say a single word in defense of the army. The department of war comes to us with estimates for the sum of eleven million, seven hundred and seventeen thousand, seven hundred and ninety-one dollars, and twenty-seven cents; and those who look only on the surface of things, may suppose that this sum is extraordinarily large; but there are many items in that sum. I have before me a statement, going to show, that, of that sum, only four millions are asked for the military service proper—a sum less than is demanded for the naval service proper, and only double the amount at which it stood when the honorable gentleman from South Carolina left the department. The sum was then about two millions of dollars; it is now not quite four millions of dollars; while, during the same period, the army has been nearly doubled, besides the raising of mounted regiments, the most expensive, for that very reason, of any in the service. I think that the gentleman from South Carolina, if he looks into the subject in detail, will find that the cost of the army is not, at this hour, greater per man, than, it was when under his own personal administration. So I am informed; and that, although the pay has

been raised a dollar a month, which has very largely augmented the expenditure.

The executive branch of the government has sent in estimates amounting in all to twenty-four and a half millions of dollars, for the service of the current year, which, with the million and a half of permanent expenditure, makes twenty-six millions. How much is to be added to that amount for appropriations not yet estimated, which may be made, during the session, by Congress, to meet honest claims, and for other objects of a public nature? I remember one item proposed by my friend near me (Mr. Mangum), for a quarter of a million for the building of a steam ship, an item not included in the estimates, but for which the Senate has already appropriated: besides which there are various other items which have passed or will pass during the present session. When the honorable gentleman from New Hampshire was at the head of the Treasury, he made, in his communications to Congress, constant complaints of this very practice. He well remembers that he was ever complaining that the expenditures of government were swelled far beyond the executive estimates, by appropriations made by Congress and estimated for by the departments. I have calculated that we shall add to the twenty-six millions of dollars estimated for the executive departments, or permanently required, at least one million and a half, which would raise the sum for this year to twenty-seven millions and a half.

How then do I propose to bring this down to twenty-two millions? I have, I own, some fears that we shall not be able to effect it; but I hope that we shall so far reduce the estimates and prevent unnecessary appropriations, that the total expenditures shall not exceed that amount. The mode in which I propose to reach such a result is this: I suppose we may effect a reduction of the civil list to the amount of half a million. That general head includes, among other things, the expense of the two Houses, and, as I have heard, the other House has already introduced a report which, if adopted, will cut down those expenses one hundred thousand dollars, though I think that they should be reduced much more. I estimate, then, three and a half millions for the civil list, instead of four millions; then I estimate nine millions for the War Department, instead of eleven millions and seven hundred and seventeen thousand dollars. In a conversation which I have lately held with the chairman of the military committee of this body, he expressed the apprehension, that it could not be reduced below ten millions, but I hope it may be cut down to nine. As to the naval service, the estimates of the department for that branch of the service, amount to eight millions seven hundred and seven thousand and five hundred dollars; an amount I think far too high, and indeed quite extravagant. I was greatly astonished at learning the amount was so large. Still I know that the navy is the favorite of all, and justly; it is the boast of the nation, and our great resource and chief dependence in the contingency of a war; no man thinks for a moment of crippling or disabling

this right arm of our defense. But I have supposed that without injury the appropriation asked for might be reduced from eight million, seven hundred and seven thousand, and five hundred, to six million and five hundred thousand dollars. This would put the reduction in the naval on a footing with that in the military appropriation, and still leave a greater appropriation than usual to that department. The reduction to six millions and a half is as large as I think will be practicable, if we are to provide for proposed experiments in the application of steam, and are, besides, to add largely to the marine corps.

How, then, will the total of our expenditures stand? We shall have,

For the civil and diplomatic expenses of the government,	$3,500,000
For the military service, ...	9,000,000
For the naval service, ...	6,500,000
For permanent appropriations, ...	1,500,000
For appropriations not included in estimates, . .	1,500,000
Making an aggregate of	$22,000,000

To this amount I suppose, and hope, our expenses may be reduced, until, on due investigation, it shall be discovered that still further reductions may be effected.

Well, then, having fixed the amount at twenty-two millions for the ordinary current expenses of government, I have supposed it necessary and proper to add two millions more to make provision for the payment of the existing national debt, which is, in the event of the loan's being taken up, seventeen millions. And then I go on to add two millions more as a reserved fund, to meet contingences; so that, should there be a temporary rise of the expenditures beyond twenty-two millions, or any sudden emergency should occur which could not be anticipated or calculated on, there may be the requisite means in the Treasury to meet it. Nor has there been a single secretary at the head of the Treasury since the days of Mr. Gallatin, including the respectable gentleman from New Hampshire opposite, (Mr. Woodbury), who has not held and expressed the opinion, that a reserved fund is highly expedient and proper for contingences. Thus I propose that twenty-two millions shall be appropriated for ordinary expenses, two millions more to provide for the public debt, and other two millions a reserved fund to meet contingences; making in all twenty-six millions.

The next inquiry which presents itself is, how this amount ought to be raised? There are two modes of estimating the revenue to be derived from foreign imports, and either of them presents only ground for a conjectural result: but so fluctuating is the course of commerce, that every one must see it to be impossible to estimate, with precision, the exact amount of what it will yield. In forming my estimate I have taken the

amount of exports as presenting the basis of calculation. But here let me add, that at the Treasury they have taken the imports as the basis; and I am gratified to be able to state, that I understand, on comparing the results arrived at, although the calculations were made without concert, those of the secretary turn out to be very nearly, if not exactly, the same with those to which I have been conducted. I will here state why it is I have taken the exports as the ground of my calculations, adding thereto fifteen per centum for profits. The exports are one means of making foreign purchases. Their value is ascertained at the ports of exportation, under the act of 1820, and the returns generally present the same value. The price of cotton, as an example, at home, is always regulated by the price in the Liverpool market. It follows, therefore, that by taking the value of any commodity at the place of its export, you reach its true value; for, if the price realized abroad be sometimes above and sometimes below that amount, the excess and deficiency will probably neutralize each other. This is the fairest mode, for another reason: if, in any one year, more foreign goods shall be purchased than the exports of that year would pay for, a credit is created abroad which must be extinguished by the exports of some succeeding year.

[Mr. Buchanan here inquired, if any deduction had been made by Mr. Clay from the exports, to pay the interest, and so forth, on American debt held abroad. Mr. Clay replied, that the senator would presently see that he had.]

I think the Senate will agree with me, in assuming, that the exports form a more correct and reliable standard of estimation than the imports; however that may be, the accidental coincidence between the results arrived at in either mode, fortifies and proves the calculation itself to have been founded on correct principles. Those results, as shown by the Secretary of the Treasury, are now, I believe, in the House, and I regretted that I could not examine them before I rose to address the Senate.

I will now show you that the exports from 1836 to 1841, inclusive, a period of six years, amount to six hundred and twenty-one million, four thousand, one hundred and twenty-five dollars, being an average annual amount of one hundred and three millions, five hundred thousand, six hundred and eighty-seven dollars. That I take as presenting a safe ground of calculations for the future. To this I propose to add fifteen per centum for profits, in which I do but follow Mr. Ewing, the late secretary, in his report at the extra session. It is certainly a great profit (I include, of course, all expenses and charges of every kind), and with this addition, the annual amount will be one hundred and eighteen million, nine hundred and fifty-eight thousand, one hundred and eighty-seven dollars, say one hundred and nineteen millions. Deducting for the interest and principal of the American debt abroad, ten millions per annum, it will leave a net amount of one hundred and nine millions. There can be no dispute as to the propriety of such a deduction: the debt exists; it must be provided for; and

my fear is, that this amount will prove too small to meet it. I think that much more may probably be needed; but certainly none can object to the reserve of ten millions. We thus get, as I said, a net balance from our annual exports, including profits, of one hundred and nine millions.

Of this amount of importation, how much is now free from duty? The free goods, including tea and coffee, amount to thirty millions; from which amount I deduct for tea and coffee, assuming that they will be subjected to moderate duties, twelve millions, leaving the amount of free articles at eighteen millions; deduct this from one hundred and nine millions, the amount of exports, and it will leave a balance of ninety-one millions, which may be assumed as the amount of dutiable articles for some years to come.

How, then, out of these ninety or ninety-one millions of dutiable goods are we to raise a revenue of twenty-six millions? No man, I presume, will rise here in his place and say, that we are to rely either on direct or internal taxes. Who has the temerity to meet the waves of popular indignation which will flow round and bury him, whoever he may be, that should propose, in time of peace, to raise a revenue by direct taxation? Yet this is the only resource to fly to, save the proceeds of the public lands, on which I shall speak presently, and which I can convince any man is not to be thought of. You are, therefore, to draw this amount of twenty-six millions from the ninety-one millions of dutiable articles imported; and to reach that sum, at what rate per centum must you go?

I shall here say nothing, or but a word or two, on the subject of home valuation—a subject which a friend has care of (Mr. Simmons), than whom none is more competent to its full elucidation. He thinks, as I understand, that there can be devised a satisfactory system of such valuation, and I heartily wish him success in the attempt. I will only say that, in my opinion, if we raise but ten millions, without any reference whatever to protection, without reference to any thing but to mere honesty, however small the amount may be, we should ourselves assess the value of the goods on which we lay the duty, and not leave the value to be fixed by foreigners. As things now stand, we lay the duty, but foreigners fix the value of the goods. Give me but the power of fixing the value of the goods, and I care little, in comparison, what may be the rate of duty you impose. It is evident that on the ad valorem principle, it is the foreigner who virtually fixes the amount of the duty paid. It is the foreigner who, by fixing that value, virtually legislates for us; and that in a case where his interest is directly opposed to that of our revenue. I say, therefore, that independently of all considerations of protection, independently of all ends or motives but the prevention of those infamous frauds which have been the disgrace of our custom house—frauds in which the foreigner, with his double and triple and quadruple invoices, ready to be produced as circumstances may require, fixes the value of the merchandise taxed—every consideration of national dignity, justice, and independence, demands the substitution of

home valuation in the place of foreign. What effect such a change may have in the augmentation of the revenue I am not prepared to say, because I do not know the amount; I think the rate may be set down at from twenty to twenty-five per centum, in addition to the foreign value of imports. I do not speak with great confidence. If the rate is twenty-five per centum, then it would add only five per centum to the rate of twenty per centum established by the compromise act. Of course, if the home be substituted for the foreign valuation, the augmentation of duties beyond twenty per centum will be less by that home valuation, whatever it may be. Without, however, entering into the question of home valuation, and leaving that subject to be arranged hereafter, I shall treat the subject as if the present system of foreign valuation were to continue.

I then return to the inquiry, on an importation amounting to ninety-one millions, how much duty must be imposed in order to raise a net revenue of twenty-six millions? The question does not admit of perfect accuracy; the utmost that can be reached is a reasonable approximation. Suppose every one of the imported articles to be subject to a duty of thirty per centum, then the gross revenue will amount to twenty-seven million and three hundred thousand dollars. Deducting the expenses of collection, which may be stated at one million and six hundred thousand dollars, it will give twenty-five million and seven hundred thousand dollarss, or three hundred thousand dollars less than the proposed amount of twenty-six millions.

But I might as well take this opportunity to explain a subject which is not well understood. It has been supposed, when I propose to fix a rate of ad valorem duty as the maximum to be allowed, that my meaning is, that all articles, of every description, are to be carried up to that point, and fixed at that rate, as on a sort of bed of Procrustes. But that is not my idea. No doubt certain articles ought to go up to the maximum—I mean those of prime necessity belonging to the class of protected articles. There are others, such as jewelry and watches, and some others of small bulk and great comparative value, and therefore easily smuggled, and presenting a great temptation to the evasion of duty, which ought to be subjected to a less rate. There should, therefore, be a discrimination allowed under the maximum rate according to the exigency of the respective circumstances of each particular interest concerned. Since it will require a duty of thirty per centum on all articles to give the amount of twenty-five million seven hundred thousand dollars, and since some of them will not bear so high a duty as thirty per centum, it follows that less than that rate will certainly not answer the necessary demands of the government, and it may in some particular cases require a rate somewhat higher than that in order to raise the proposed sum of twenty-six millions. But as the reserved fund of two millions for contingencies will not require an annual revenue for that purpose, should the amount of duties levied be less than twenty-six millions, or even between twenty-four and twenty-five millions, the reserved fund

may be made up by accumulation, during successive years, and still leave an amount sufficient to meet an annual expenditure of twenty-two millions, and two millions for the public debt.

I now approach the consideration of a very important branch of the subject in its connection with the compromise act.

I shall not here attempt to go again into the history of that act. I will only say that, at the time of its passage, it was thought right that the country should make a fair experiment of its effect; and that, as the law itself met the approbation of all parts of the country, its provisions ought not lightly to be departed from; that the principles of the act should be observed in good faith; and that, if it be necessary to raise the duties higher than twenty per centum, we ought to adhere to the principles of the compromise, then, as far as it should be possible to do. I have been animated, in the propositions I now offer to the Senate, by the same desire that prompted me, whenever the act has been assailed by its opponents, to stand by it and defend it.

But it is necessary now to consider what the principles of the compromise act really are.

The first principle is, that there should be a fixed rate of ad valorem duty, and discriminations below it.

Second, that the excess of duty beyond twenty per centum should, by a gradual process, commencing on the 31st of December, 1833, be reduced, so that by the 30th of June, 1842, it should be brought down to twenty per centum.

Third, that after that day, such duties should be laid for the purpose of raising such revenue as might be necessary for an economical administration of the government; consequently excluding all resort to internal taxation, or to the proceeds of the public lands. For, cotemporaneously with the pendency of the compromise act, a bill was pending for the distribution of those proceeds.

Fourth, that after the 30th of June, 1842, all duties should be paid in ready money, to the exclusion of all credits.

Fifth, that after the same day, the assessment of the value of all imports should be made at home and not abroad.

Sixth, that after the same day, a list of articles specified and enumerated in the act, should be admitted free of duty, for the benefit of the manufacturing interest.

These are the principles, and all the principles, of the compromise act. An impression has been taken up, most erroneously, that the rate of duty was never to exceed twenty per centum. There is no such limitation in the act. I admit that, at the time of the passage of the act, a hope was entertained that a rate of duty not exceeding twenty per centum would supply an adequate revenue to an economical administration of the government. Then we were threatened with that overflow of revenue with which the treasury was subsequently inundated; and the difficulty was to find

articles which should be liberated from duty and thrown into the free class. Hence, wines, silks, and other luxuries, were rendered free. But the act, and no part of the act, when fairly interpreted, limits Congress to the iron rule of adhering forever, and under all circumstances, to a fixed and unalterable rate of twenty per centum duty. The first section is in the following words:

"Be it enacted, and so forth, that, from and after the thirty-first day of December, one thousand eight hundred and thirty-three, in all cases where duties imposed on foreign imports by the act of the fourteenth day of July, one thousand eight hundred and thirty-two, entitled, 'an act to alter and amend the several acts imposing duties on imports,' or by any other act, shall exceed twenty per centum on the value thereof, one tenth part of such excess shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-five, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-seven, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-nine, another tenth part thereof shall be deducted; and from and after the thirty-first day of December, one thousand eight hundred and forty-one, one half of the residue of such excess shall be deducted; and from and after the thirtieth day of June, one thousand eight hundred and forty-two, the other half thereof shall be deducted."

The provision of that section is nothing more nor less than that the existing duties should be, by the 30th of June, 1842, brought down to twenty per centum. What then? Were they always to remain at that rate? The section does not so declare. Not only is this not expected, and was not so understood, but directly the reverse is asserted, and was so understood, if the exigences of the treasury required a higher rate to provide the revenue necessary to an economical administration of the government. The third section, which embodies most of the great principles of the act, is in these words:

"Section 3. And be it further enacted, that until the thirteenth day of June, one thousand eight hundred and forty-two, the duties imposed by existing laws, as modified by this act, shall remain and continue to be collected. And, from and after the day last aforesaid, all duties upon imports shall be collected in ready money; and all credits now allowed by law, in the payment of duties, shall be, and hereby are, abolished; and such duties shall be laid for the purpose of raising such revenue as may be necessary to an economical administration of the government; and, from and after the day last aforesaid, the duties required to be paid by law on goods, wares, and merchandise, shall be assessed upon the value thereof, at the port where the same shall be entered, under such regulations as may be prescribed by law."

What is the meaning of this language? Can any thing be more explicit or less liable to misconception? It contains two obligations. The first is, that there shall be an economical administration of the government

—no waste, no extravagance, no squandering of the public money. I admit this obligation, in its fullest force, in all its length and breadth, and I trust that my friends, with or without my aid, will fulfill it, in letter and spirit, with the most perfect fulfillment. But the second obligation is no less binding and imperative; and that is, that such duties shall be laid as may be necessary to raise such revenue as is requisite to an economical administration of the government. The source of revenue is defined and prescribed—the foreign imports, to the exclusion of all other sources. The amount, from the nature of things, could not be specified; but whatever it may be, be it large or small, allowing us to come below, or requiring that we should go beyond twenty per centum, that amount is to be raised.

I contend, therefore, with entire confidence, that it is perfectly consistent with the provisions of the compromise act, to impose duties to any amount whatever, thirty, forty, or more per centum, subject to the single condition of an economical administration of the government.

What are the other principles of the act? First, there is the principle that a fixed ad valorem duty shall prevail and be in force at all times. For one, I am willing to abide by that principle. There are certain vague notions afloat as to the utility and necessity of specific duties and discriminations, which I am persuaded arise from a want of a right understanding of the subject. We have had the ad valorem principle practically in force ever since the compromise act was passed; and there has been no difficulty in administering the duties of the treasury on that principle.

It was necessary first to ascertain the value of the goods, and then to impose the duty upon them; and, from the commencement of the act to this day, the ad valorem principle has been substantially in operation. Compare the difference between specific and the ad valorem system of duties, and I maintain that the latter is justly entitled to the preference. The one principle declares that the duty shall be paid upon the real value of the article taxed; the specific principle imposes an equal duty on articles greatly unequal in value. Coffee, for example (and it is an article which always suggests itself to my thoughts), is one of the articles on which a specific duty has been levied. Now, it is perfectly well known that the Mocha coffee is worth at least twice as much as the coffee of St. Domingo or Cuba, yet both pay the same duty. The tax has no respect to the value, but it is arbitrarily levied on all articles of a specific kind, alike, however various and unequal may be their values. I say that, in theory, and according to every sound principle of justice, the ad valorem mode of taxation is entitled to the preference. There is, I admit, one objection to it: as the value of an article is a matter subject to opinion, and as opinions will ever vary, either honestly or fraudulently, there is some difficulty in preventing frauds. But, with the home valuation proposed by my friend from Rhode Island (Mr. Simmons), the ad valorem system can

be adopted with all practicable safety, and will be liable to those chances only of fraud which are inevitable under any and every system.

Again. What has been the fact from the origin of the government until now? The articles from which the greatest amount of revenue has been drawn, such as woolens, linens, silks, cottons, worsteds, and a few others, have all been taxed on the ad valorem principle, and there has been no difficulty in the operation. I believe, upon the whole, that it is the best mode. I believe that if we adopt a fixed rate ad valorem, wherever it can be done, the revenue will be subjected to fewer frauds than the injustice and frauds incident to specific duties. One of the most prolific sources of the violation of our revenue laws has been, as every body knows, the effort to get goods of a finer quality and higher value admitted under the lower rate of duty required for those of a lower value. The honorable gentleman from New Hampshire (Mr. Woodbury), and the honorable senator from New York (Mr. Wright), both well know this. But if the duty were laid ad valorem there could be no motive for such an effort, and the fraud, in its present form, would have no place. In England, as all who have read the able report made by Mr. Hume, a Scottish member in the House of Commons, must perceive, they seem to be giving up specific duties, and the tendency in the public mind appears to be, instead of having a variety of specific duties and a variety of ad valorem duties, to have one permanent fixed rate of duty for all articles. I am willing, I repeat, to adhere to this great principle, as laid down in the compromise act. If there be those who suppose that, under the specific form of duty, a higher degree of protection can be secured than under the other mode, I would observe that the actual measure of protection does not depend upon the form, but on the amount of the duty which is levied on the foreign rival article.

Assuming that we are to adhere to this principle, then every one of the leading principles of the same act can be adhered to and carried fully out; for I again assert that the idea that duties are always to remain at precisely twenty per centum, and never to vary from that point, be the exigences of government what they may, does not belong to the language of the act, nor is it required by any one of its provisions.

The next resolution I have proposed to the consideration of the Senate is this:

"Resolved, that the provision in the act of the extra session, for the distribution of the proceeds of the public lands, requiring the operation of that act to be suspended in the contingency of a higher rate of duty than twenty per centum, ought to be repealed."

Now, according to the calculations I have made, the repeal of the clause in question, and the recall of the proceeds of the sales of public lands from the States, even if made, will not dispense with the necessity of a great increase in the existing rate of taxation. I have shown that a duty of

thirty per centum will not be too much to furnish the requisite amount of revenue for a just and economical administration of the government. And how much of that rate will be reduced should you add to the revenue from imports the million and a half (which was the amount realized the last year), derived from sales of the public domain? It will be but the difference between thirty and about twenty-eight and a half. For, since thirty per centum yields a revenue of twenty-six millions, one per centum will bring about nine hundred thousand; and every million of dollars derived from lands will reduce your taxation on imports only nine hundred thousand; if you get a million and a half from the lands, it will reduce the taxes only from thirty to twenty-eight and a half per centum; or if you get three millions, as some gentlemen insist will be the case, then you will save taxes in the amount of the difference between thirty per centum and about twenty-seven per centum. This will be the whole extent of benefit derived from this land fund, which some senators have supposed would be so abundant as to relieve us from all necessity of additional taxation at all. I put it, then, to every senator, no matter whether he was opposed to the land bill or not, whether he is willing, for the sake of this trifling difference, between thirty and twenty-eight and a half per centum, or between thirty and twenty-seven per centum, to disturb a great momentous and perplexing subject of our national policy, which is now settled, and thereby show such an example of instability in legislation as will be exhibited by the fact of unsettling so great a question within less than eight months after it had been fixed, on the most mature consideration? If gentlemen can make more out of the land fund than I have here stated it likely to yield, I shall be glad to hear on what ground they rest their calculations. I say that all the difference it will produce in the amount of our increased taxation is the difference between thirty and twenty-eight and half, or between thirty and twenty-seven per centum. Will you, I repeat the question, when it is absolutely and confessedly necessary that more revenue shall be raised, and the mode in which it may be done is fraught with so many and so great benefits to the country, as I shall presently show, will you disturb a great and vexed national question for the sake of eking out, in so trifling a degree, the amount to be raised? But let us look at the subject in another view. The resources on which government should depend, for paying the public creditor, and maintaining inviolate the national faith and credit, ought to be such as to admit of some certain estimate and calculation. But what possible reliance can be placed on a fund so fluctuating and variable as that which is derivable from the sales of the public lands? We have seen it rise to the extraordinary height of twenty-six millions in one year, and in less than six years afterward fall down to the low amount of one million and a half!

The next resolution affirms a proposition which I hope will receive the unanimous consent of the Senate. It is as follows:

"Resolved, that it is the duty of government, at all times, but more especi-

ally in a season such as now exists, of general embarrassment, and pecuniary distress, to abolish all useless institutions and offices, to curtail all unnecessary expenses, and to practice rigid economy."

And the seventh resolution declares,

"That the contingent expenses of the two Houses of Congress ought to be greatly reduced; and the mileage of members of Congress ought to be regulated, and more clearly defined."

It has appeared to me, that the process of retrenchment of the public expenses, and reform of existing abuses, ought to begin, in an especial manner, with ourselves, in Congress itself, where is found one of the most extravagant of all the branches of the government. We should begin at home, and encourage the work of retrenchment by our own example. I have before me a document which exhibits the gradual progress in the contingent expenses of the two Houses of Congress, from 1820 to 1840, embracing a period of twenty years, divided into terms four years apart, and it shows that the amount of the contingent fund has advanced from eighty-six thousand dollars, which it was in 1824, to one hundred and twenty-one thousand in 1828, a rate of increase not greater than was proper, considering the progress of the country; to one hundred and sixty-five thousand in 1832; to two hundred and sixty-three thousand, in 1836; and, in 1840, it amounted, under an administration which charged that in 1824 with extravagance, to the enormous sum of three hundred and eighty-four thousand, three hundred and thirty-three dollars! I am really sorry, for the credit of Congress, to be obliged to read a statement exhibiting such shameful, such profligate waste. And allow me here to say, without any intention of being unkind to those able and competent officers, the Secretary of the Senate, and the Clerk of the House of Representatives (not the present clerk), that they ought to bear a share of the responsibility, for the great and sudden growth of this expenditure. How did it arise? The clerk presents his estimate of the sum that will be necessary, and the committee of ways and means, being busily occupied in matters of greater moment, take it without sufficient examination, and insert it at once on the appropriation bill. But I insist that it should be cut down to a sum of which members of Congress may, with some decency, speak to their constituents. A salutary reform has been commenced in the House of Representatives, which ought to be followed up here. They have already stricken one hundred thousand dollars from the contingent fund for both Houses; but they should go much lower. I hope there will be another item of retrenchment, in fixing a reasonable maximum amount, to be allowed for stationery furnished to the members of Congress. If this shall be adopted, much will have been done; for this is one of the most fruitful sources of congressional extravagance. I am told that the stationery furnished during the twenty-fifth Congress averages more than one hundred

dollars per head to each member. Can any man believe that any such amount as this can be necessary? Is it not an instance of profligate waste and profusion?

My next resolution is directed to the expenses of the judicial department of the government.

"Resolved, that the expenses of the judicial department have, of late years, been greatly increased, and ought to be diminished."

In this department, also, there has been a vast augmentation of the expenses, and such a one as calls for a thorough investigation. The amount of the appropriation for the judicial department has sprung up from two hundred and nine thousand dollars, which it was in 1824, to four hundred and seventy-one thousand dollars, at which it stood for the year 1840. Can any man believe that this has all been fairly done? that that department actually requires the expenditure every year of nearly half a million of dollars? I have no doubt that the district judges and the marshals, who have great control of the expenditure of the fund, and the clerks, ought to be held responsible for this enormous increase. Without any intention to indulge in any invidious distinctions, I think I could name a district in which great abuses prevail, and the expenditures are four or five times greater than they are in any other district throughout the country. I hope this whole matter will be thoroughly investigated, and that some necessary restraints will be imposed upon this branch of the public service. I am truly sorry, that in a branch of the government which, for its purity and uprightness, has ever been distinguished, and which so well merits the admiration of the whole country, there should have occurred so discreditable an increase in the expenses of its practical administration.

The next resolution asserts,

"That the diplomatic relations of the United States with foreign powers have been unnecessarily extended during the last twelve years, and ought to be reduced."

I will not dwell long on this subject. I must remark, however, that, since the days of Mr. Adams's administration, the number of foreign ministers, of the first grade, has nearly doubled, and that of ministers of the second grade has nearly tripled. Why, we have ministers abroad, who are seeking for the governments to which they are accredited, and the governments are not to be found! We have ministers at Constantinople and Vienna, and for what? We have an unreciprocated mission to Naples, and for what? There was, at the last session, an attempt to abolish this appointment, but it unfortunately failed. One would think that, in such a one-sided, unreciprocated diplomacy, if a regard to economy did not prompt us to discontinue the relation, national pride would. In like manner, we might look round the coasts of Europe, and of this continent, and find mis-

sion after mission which there seems to be no earthly utility in retaining. But I forbear.

On the subject of mileage, I hope there may be an effort to equalize it justly, and render it uniform, and that the same allowance will be made for the same distance traveled, whether by land, by water, or by steam route, or whether the distance be ascertained by horizontal or surface measurement. I think the former the best mode, because it limits us to a single and simple inquiry, and leaves no open door for abuses. I hope, therefore, we shall adopt it.

The next resolution of the series reads thus:

"Resolved, that the franking privilege ought to be further restricted, the abusive uses of it restrained and punished, the postage on letters reduced, the mode of estimating distances more clearly defined and precribed, and a small addition to postage made on books, pamphlets, and packages transmitted by the mail, to be graduated and increased according to their respective weights."

The franking privilege has been most direfully abused. We have already reached a point of abuse, not to say corruption, though the government has been in operation but about fifty years, which it has taken Great Britain centuries to attain. Blank envelops, I have heard it said, ready franked, have been inclosed to individuals at a distance, who openly boasted that their correspondence is free of charge. The limitation as to the weight is now extended, I believe, to two ounces. But what of that, if a man may send under his frank a thousand of these two-ounce packages? The limitation should be to the total weight included in any single mail, whether the packages be few or many. The report of the Postmaster General, at a former session, states the astounding fact that, of the whole amount transported in the mails, *ninety-five per centum* goes free of all duty, and letters of business and private correspondence have to defray the expense of the whole. It is monstrous, and calls loudly for some provision to equalize the charge. The present postage on letters is enormously high, in proportion to the other business of the country. If you will refuse to carry those packages, which are now transmitted by mail simply because in that mode they can travel free of cost, you will greatly relieve the business interests of the country, which now bear nearly the whole burden for all the rest. This it is your duty to do. Let us throw, at least, a fair portion of the burden on those who receive, at present, the whole of the benefit. Again. The law is very loose and uncertain as to the estimation of distances. Since the introduction of steam travel, the distance traveled has, in many cases, been increased, while the time consumed has been shortened. Take, as an illustration, a case near at hand. The nearest distance from here to Frederic city, in Maryland, is forty-four miles; but, if you go hence to the dépôt on the Baltimore road, and thence take the train to Frederic, you arrive sooner, but the distance is increased to one hundred miles. Now, as letters are charged according to the miles traveled, I hold

it very wrong to subject a letter to this more than double charge, in consequence of adopting a longer route in distance, though a shorter in time. Such cases ought to be provided against by specific rules.

I come now to the last resolution offered, which is as follows:

"Resolved, that the Secretaries of State, of the Treasury of the War, and of the Navy Departments, and the Postmaster General, be severally directed, as soon as practicable, to report what offices can be abolished, and what retrenchments of public expenditure can be made, without public detriment, in the respective branches of the public service under their charge."

We all know that, if the heads of departments will not go to work with us honestly and faithfully, in truth and sincerity, Congress, thus unaided, can effect comparatively but little. I hope they will enter with us on this good work of retrenchment and reform. I shall be the last to express in advance any distrust of their upright intentions in this respect. The only thing that alarms me is, that two of these departments have come to us asking us for appropriations far beyond any that have heretofore been demanded in time of peace, and that with the full knowledge of the fact of an empty treasury. But I still hope, when they shall see Congress heartily in earnest, engaged in retrenching useless expenditure, and reducing estimates that can not be complied with, that they will boldly bring out to view all abuses which exist in their several spheres of action, and let us apply the pruning-knife, so as to reduce the national expenditure within some proper and reasonable amount. At all events, they are, of course, most familiar with the details of the subject, as it relates to their several branches of the administration. Among other items, there are several useless mints, which only operate to waste the public money. A friend, occupied in investigating this subject, has told me that the mint in New Orleans has already cost the country half a million of dollars, for getting ready to coin bullion not yet dug out of the mine!

[Mr. Berrien here spoke across something not heard by the reporter, in relation to the mint at Dahlonega, which excited much mirth in the neighboring part of the chamber.]

While every piece of coin made by these useless establishments could just as well be coined by the central mint, at Philadelphia.

And now, having gone through with all the details of this series of resolutions, which I thought it my duty to notice, allow me, in drawing to a conclusion of these remarks, to present some of the advantages which it appears to me should urge us to adopt the system of financial arrangement contemplated in the resolutions.

And first, the government will, in this way, secure to itself an adequate amount of revenue, without being obliged to depend on temporary and disreputable expedients, and thus preserve the public credit unsullied, which I deem a great advantage of the plan. Credit is of incalculable value,

whether to a nation or an individual. England, proud England, a country with which we may one day again come in conflict—though it gives me pleasure to say, that I can not perceive at present the least "speck of war" in the political horizon—owes her greatness, her vastness of power, pervading the habitable globe, mainly to her strict and uniform attention to the preservation of the national credit.

Second. The next thing recommended, is retrenchment in the national expenditure, and greater economy in the administration of the government. And do we not owe it to this bleeding country, to ourselves, and the unparalleled condition of the times, to exhibit to the world a fixed, resolute, and patriotic purpose, to reduce the public expenditure to an economical standard?

Third. But a much more important advantage than either of those I have yet adverted to, is to be found in the check which the adoption of this plan will impose on the efflux of the precious metals from this country to foreign countries. I shall not now go into the causes by which the country has been brought down from the elevated condition of prosperity it once enjoyed, to its present state of general embarrassment and distress. I think that those causes are as distinctly in my understanding and memory as any subjects were ever impressed there; but I have no desire to go into a discussion which can only revive the remembrance of unpleasant topics. My purpose, my fixed purpose on this occasion, has been to appeal to all gentlemen on all political sides of this chamber, to come out, and make a sacrifice of all lesser differences, in a patriotic, generous, and general effort, for the relief of their country. I shall not open these bleeding wounds which have, in too many instances, been inflicted by brothers' hands—especially will I not do so at this time, and on this occasion. I shall look merely at facts as they are. I shall not ask what have been the remote causes of the depression and wretchedness of our once glorious and happy country. I will turn my view only on causes which are proximate, indisputable, and immediately before us.

One great if not sole cause is to be found in the withdrawal of coin from the country, to pay debts accrued or accruing abroad, for foreign imports, or debts contracted during former periods of prosperity, and still hanging over the country. How this withdrawal operates in practice, is not difficult to be understood. The banks of the country, when they are in a sound state, act upon this coin as the basis of their circulation and discounts; the withdrawal of it not only obliges the banks to withhold discounts and accommodations, but to draw in what is due from their debtors, at the precise time when they, sharing in the general stricture, are least able to meet the calls. Property is then thrown into the market, to raise means to comply with those demands, depression ensues, and, as is invariably the case when there is a downward tendency in its value, it falls below its real worth. But the foreign demand for specie, to pay commercial and other public debts, operates directly upon the precious metals themselves, which

are gathered up by bankers, and brokers, and others, obtained from these depositaries, and thence exported. Thus, this foreign demand has a double operation, one upon the banks, and through them upon the community, and the other upon the coin of the country. Gentlemen, in my humble opinion, utterly deceive themselves in attributing to the banking institutions all the distresses of the country. Doubtless, the erroneous and fraudulent administration of some of them, has occasioned much local and individual distress. But this would be temporary and limited, while the other cause—the continued efflux of specie from the country—if not arrested, would perpetuate the distress. Could you annihilate every bank in the Union, and burn every bank note, and substitute in their place a circulation of nothing but the precious metals, as long as such a tariff continues as now exists, two years would not elapse till you would find the imperative necessity of some paper medium for conducting the domestic exchanges.

I announce only a historical truth, when I declare, that during, and ever since our colonial existence, necessity has given rise to the existence of a paper circulation of some form, in every colony on this continent; and there was a perpetual struggle between the crown and royal governors on one hand, and the colonial Legislatures on the other, on this very subject of paper money. No; if you had to-morrow a circulation consisting of nothing but the precious metals, they would leave you as the morning dew leaves the fields, and you would be left under the necessity of devising a mode to fill the chasm produced by their absence.

I am ready to make one concession to the gentlemen on the other side. I admit that, if the circulation were in coin alone, the thermometer of our monetary fluctuations would not rise as high, or fall as low as when the circulation is of a mixed character, consisting partly of coin and partly of paper. But then the fluctuations themselves, within a more circumscribed range, would be quite as numerous, and they will and must exist so long as such a tariff remains as forces the precious metals abroad. I again repeat the assertion that, could you annihilate to-morrow every bank in the country, the very same description of embarrassment, if not in the same degree, would still be found which now pervades our country.

What, then, is to be done to check this foreign drain? We have tried free trade. We have had the principles of free trade operating on more than half the total amount of our comforts, for the greater part of nine years past. That will not do, we see. Do let me recall to the recollection of the Senate the period when the protective system was thought about to be permanently established. What was the great argument then urged against its establishment? It was this: that if duties were laid directly for protection, then we must resort to direct taxation to meet the wants of the government; every body must make up their minds to a system of internal taxation. Look at the debate in the House of Representatives of 1824, and you will find that was the point on which the great stress was laid. Well, it turned out as the friends of protection told you it

would. We said that such would not be the effect. True, it would diminish importation, as it did; but the augmented amount of taxes would more than compensate for the reduced amount of goods. This we told you, and we were right.

How has free trade operated on other great interests? I well remember, that, ten years ago, one of the most gifted of the sons of South Carolina (Mr. Hayne), after drawing a most vivid and frightful picture of the condition of the South—of fields abandoned, houses dilapidated, overseers becoming masters, and masters overseers, general stagnation, and approaching ruin a picture which, I confess, filled me with dismay—cried out to us, Abolish your tariff, reduce your revenue to the standard of an economical government, and once more the fields of South Carolina will smile with beauty, her embarrassments will vanish, commerce will return to her harbors, labor to her plantations; augmented prices for her staples, and contentment, and prosperity, and universal happiness to her oppressed people. Well, we did reduce the tariff, and, after nine years of protection, we have had nine years of a descending tariff and of free trade. Nine years (from 1824 to 1833), we had the protective policy of a high tariff; and nine years (from 1833 to 1842), we have had the full operation of free trade on more than a moiety of the whole amount of our imports, and a descending tariff on the residue. And what is the condition of South Carolina at this day? Has she regained her lost prosperity? Has she recovered from the desolation and ruin so confidently imputed to the existence of a high tariff? I believe, if the gentleman from South Carolina could be interrogated here, and would respond in candor, unbiased by the delusions engendered by a favorite but delusive theory, he would tell us that she had not experienced the promised prosperity which was dwelt upon with so much eloquence by his fellow-citizen. How is it in regard to the great staple of the South? How stand the prices of cotton during these nine years of the descending tariff, and the prevalence of free trade? How do these years compare with the nine years of protection and high tariff? Has the price of cotton increased, as we were told it would, by the talented South Carolinian? It has happened that during the nine tariff years the average price of cotton was from 1824 to 1833 higher than during the nine years of descending tariff and free trade; and at the instant I am speaking, I understand that cotton is selling at a lower rate than has been realized since the war with Great Britain. I know with what tenacity theorists adhere to a favorite theory, and search out for imaginary causes of results before their eyes, and deny the true. I am not going into the land of abstractions and of metaphysics. There are two great, leading incontestable facts, which gentlemen must admit; first, that a high tariff did not put down the prices of staple commodities; and, second, that a low tariff and free trade have not been able to save them from depression. These are the facts; let casuists, and theorists, and the advocates of a one-sided, paralytic free trade, in which we turn our sound side to the world, and our

blighted, and paralyzed, and dead side toward our own people, make of them what they can. At the very moment that England is pushing the resources of Asia, cultivating the fields of India, and even contemplating the subsidizing of Africa, for the supply of her factories with cotton, and when the importations from India have swelled from two hundred thousand bales to five hundred and eighty thousand bales, we are told that there are to be no restrictions on free trade.

Let me not be misunderstood, and let me entreat that I may not be misrepresented. I am not advocating the revival of a high protective tariff. I am for abiding by the principles of the compromise act; I am for doing what no southern man of a fair or candid mind has ever yet denied—giving to the country a revenue which may provide for the economical wants of the government, and at the same time give an incidental protection to our home industry. If there be here a single gentleman who will deny the fairness and propriety of this, I shall be glad to see and hear who he is.

This check on the flow of specie abroad, to pay either a commercial or a public debt, will operate by the imposition of duties to meet the wants of the government; will keep the precious metals at home to a much greater extent than is now possible. I hope that we shall learn to live within our own means, and not remain so dependent as we now are on the mere good pleasure and domestic policy of foreign governments. We go for revenue; for an amount of revenue adequate to an economical administration of the government. We can get such revenue nowhere else than from a tariff on importations. No man in his senses will propose a resort to direct or internal taxes. And this arrangement of the tariff, while it answers this end, will at the same time operate as a check on the efflux of the precious metals, and retain what is necessary for the purposes of exchange and circulation.

The fourth advantage attending the adoption of the system proposed will be, that the States will be left in the undisturbed possession of the land fund secured to them by the act of the last session, and which was intended to aid them in the embarrassments under which some of them are now laboring.

And the last is that to which I have already adverted, namely, that it will afford, indirectly, protection to the interests of American industry. And the most bitter and persevering opponent to the protective policy I ever met with, has never denied that it is both the right and the duty of government so to lay the taxes necessary to the public service as to afford incidental protection to our own home industry.

But it is said that, by the adoption of one fixed, arbitrary maximum of ad valorem duty, we shall not derive that measure of protection which is expected; and I admit that there may be certain articles, the product of the mechanic arts—such, for example, as shoes, hats, and ready-made clothing, and sugar, iron, and paper—some or all of which may not derive the protection which they need under the plan I propose. On that subject

I can only say—what I said at the time of the passage of the compromise act—if some few articles shall not prove to be sufficiently protected beneath the established maximum rate, I should hope that, in the spirit of harmony and compromise, additional duties, above that rate, sufficient to afford reasonable protection to those few articles, by general consent, would be imposed. I am not, at present, prepared to say whether the rule I have suggested will afford adequate protection to these particular interests or not; I fear it may not. But if the subject shall be looked at in the spirit of patriotism, without party bias or local influences, it will be found that the few articles alluded to are so distributed, or are of such a nature as to furnish the grounds of a friendly adjustment. The interests of the sugar of the South may then be set against the iron of the center and the productions of the mechanic arts, which, although prevailing everywhere, are most concentrated at the North. With respect to these, without reference to any general system of protection, they have been at all times protected. And who that has a heart, or the sympathies of a man, can say or feel that our hatters, tailors, and shoemakers, should not be protected against the rival productions of other countries? Who would say that the shoemaker, who makes the shoes of his wife—his own wife, according to the proverb, being the last woman in the parish that is supplied with hers—shall not be protected? that the tailor, who furnishes him with a new coat, or the hatter, that makes him a new hat, to go to church, to attend a wedding, or christening, or to visit his neighbor, shall not be adequately protected?

Then there is the essential article of iron; that is a great central interest. Whether it will require a higher degree of perfection than it will derive from such a system as I have sketched, I have not sufficient information to decide; but this I am prepared to say, that question will be with the representatives of those States which are chiefly interested; and, if their iron is not sufficiently protected, they must take the matter up and make out their case to be an exception to the general arrangement. When I speak of the representatives of these States, I mean their entire delegation, without regard to political denominations or distinctions. They must look into the matter, and if they take it up, and bring forward their propositions, and make out a clear case of exception to the general rule, I shall be an humble follower of their lead, but I will not myself take the lead in any such case. If these States want certain interests protected, they must send delegates here who are prepared to protect them. Such a State can not reasonably expect senators from other States, having no direct, local, or particular concern in such interests, to force on her the protection of her own interests against her own will, as that will is officially expressed by her representatives in Congress. I again say, I am ready to follow, but I will not lead.

With me, from the first moment I conceived the idea of creating, at home, a protection for the production of whatever is needed to supply the

wants of man, up to this moment, it has always been purely a question of expediency. I never could comprehend the constitutional objection which to some gentlemen seems so extremely obvious. I could comprehend, to be sure, what these gentlemen mean to argue, but I never had the least belief in the constitutional objection which slept from 1788 (or, rather, which reverses the doctrine of 1780), till it suddenly waked up in 1820. Then, for the first time since the existence of the Constitution, was the doctrine advanced that we could not legitimately afford any protection to our own home industry against foreign and adverse industry. I say, that with me it always was a question of expediency only. If the nation does not want protection, I certainly never would vote to force it upon the nation; but viewing it as a question of expediency wholly, I have not hesitated heretofore, on the broad and comprehensive ground of expediency, to give my assent to all suitable measures proposed with a view to that end.

The Senate will perceive that I have forborne to go into detail, especially in regard to the urgency of reform and retrenchment, with one or two exceptions. I have presented to it a system of policy embodied in these resolutions, containing those great principles in which I believe that the interest, prosperity, and happiness of the country are deeply involved—principles, the adoption of which alone can place the finances of the government upon a respectable footing, and free us from a condition of servile dependence on the legislation of foreign nations. I have persuaded myself that the system now brought forward will be met in a spirit of candor and of patriotism, and in the hope that whatever may have been the differences in the Senate in days past, we have now reached a period in which we forget our prejudices, and agree to bury our transient animosities deep at the foot of the altar of our common country, and come together as an assemblage of friends, and brothers, and compatriots, met in common consultation to devise the best mode of relieving the public distress. It is in this spirit that I have brought forward my proposed plan; and I trust in God, invoking, as I humbly do, the aid and blessing of his Providence, that the senators, on all sides of the chamber, will lay aside all party feelings, and more especially that habitual suspicion to which we are all more or less prone (and from which I profess not to be exempted more than other men), that impels us to reject, without examination, and to distrust whatever proceeds from a quarter we have been in the habit of opposing. Let us lay aside prejudice; let us look at the distresses of our country, and these alone. I trust that in this spirit we shall examine these resolutions, and decide upon them according to the dictates of our own consciences, and in a pure and patriotic regard to the welfare of our country.

MR. CLAY'S VALEDICTORY TO THE SENATE.

IN SENATE, MARCH 31, 1842.

[Truly, Mr. Clay's was an eventful life. Here we find him bidding farewell to the Senate forever—as was then supposed—thirty-six years after he first took his seat as a member of that body, nearly all of which time had been spent in the public service, chiefly in Congress, filling his country and the world with his fame as an extraordinary man. Ever in the eye of the public, filling it more largely as time advanced, it was his destiny to be the observed of all observers. Who would not be tired, after such a term of public service, and of such service? He had come now, apparently, to the expiration of his period, and was taking leave forever of his co-laborers, all of whom hung upon his lips, as he gave these parting words, full of respect, forgiving all his faults, impressed with a sense of his superiority over ordinary men, and ready to say, God bless you! It was a rare scene in a public assembly of this description. They who had rivaled each other in debate, and often spoken hot words, who had faced this very man in stern controversy, and sometimes with hard feelings, fully appreciated his generous character, and kindly reciprocated the kindness manifested by him on this occasion. They felt that they were parting with a rare man, and never expected to meet him again in that field; nor did he expect ever to meet them on the same floor. So little do the wisest men sometimes see into the future. And it is well they should not. Events are not always foreshadowed. A single peep into the future would have destroyed the interest of this occasion. Its seeming was a reality; and yet the future since disclosed, and not less real, was a sort of mockery of the past, and seemed to undo history. For, after the lapse of seven years, Mr. Clay appears again in the Senate of the United States, to enact a part which made him more prominent and more influential than at any former period of his eventful history. He appeared, not as a party man, but as a Great Pacificator, to do his last work of conciliation, and then to die.]

Mr. Clay rose, with deep and solemn emotion, and said, that, before proceeding to make the motion for which he had risen, he begged leave to submit, on the only occasion remaining to him, an observation or two on a different subject. It would be remembered that he had offered, on a former day, some resolutions proposing certain amendments in the Constitution of the United States; they had undergone some discussion, and he had been desirous of replying to the able arguments which had been urged in opposition to them, and of obtaining an expression of the sense of the Senate; but owing to the infirm state of his health, to the pressure of business in the Senate, and especially to the absence, at this moment, of several of his friends, he had concluded that this was unnecessary. He regretted the want of an opportunity to present what he thought would be a satisfactory answer to those arguments. He should commit the subject, therefore, to the hands of the Senate, to be disposed of as their judgment should dictate; concluding what he had to say in relation to them with the remark, that the convictions he had before entertained in regard to the several amendments, he still deliberately held, after all that he had heard upon the subject; and that he firmly believed the true and permanent security of the just checks and balances of the Constitution required their adoption.

And now, said Mr. Clay, allow me to announce, formally and officially, my retirement from the Senate of the United States, and to present the last motion I shall ever make in this body. But, before I make that motion, I trust I shall be pardoned if I avail myself, with the permission and indulgence of the Senate, of this last occasion of addressing to it a few more observations.

I entered the Senate of the United States in December, 1806. I regarded that body then, and still consider it, as one which may compare, without disadvantage, with any legislative assembly, either in ancient or modern times, whether I look to its dignity, the extent and importance of its powers, the ability by which its individual members have been distinguished, or its organic constitution. If compared in any of these respects with the Senates either of France or of England, that of the United States will sustain no derogation. With respect to the mode of constituting those bodies, I may observe, that, in the House of Peers in England, with the exceptions of Ireland, and of Scotland—and in that of France with no exception whatever—the members hold their places in their individual rights under no delegated authority, not even from the order to which they belong, but derive them from the grant of the crown, transmitted by descent, or created in new patents of nobility; while here we have the proud and more noble title of representatives of sovereign States, of distinct and independent commonwealths.

If we look again at the powers exercised by the Senates of France and England, and by the Senate of the United States, we shall find that the aggregate of power is much greater here. In all, the respective bodies

possess the legislative power. In the foreign Senates, as in this, the judicial power is invested, although there it exists in a larger degree than here. But, on the other hand, that vast, undefined, and undefinable power involved in the right to co-operate with the executive in the formation and ratification of treaties, is enjoyed in all its magnitude and consequence by this body, while it is possessed by neither of theirs; beside which, there is another function of very great practical importance—that of sharing with the executive branch in distributing the immense patronage of this government. In both these latter respects we stand on grounds different from the House of Peers either of England or France. And then, as to the dignity and decorum of its proceedings, and ordinarily, as to the ability of its members, I may, with great truth, declare that, during the whole long period of my knowledge of this Senate, it can, without arrogance or presumption, stand an advantageous comparison with any deliberative body that ever existed in ancient or modern times.

Full of attraction, however, as a seat in the Senate is, sufficient as it is to satisfy the aspirations of the most ambitious heart, I have long determined to relinquish it, and to seek that repose which can be enjoyed only in the shades of private life, in the circle of one's own family, and in the tranquil enjoyments included in one enchanting word—Home.

It was my purpose to terminate my connection with this body in November, 1840, after the memorable and glorious political struggle which distinguished that year: but I learned, soon after, what indeed I had for some time anticipated from the result of my own reflections, that an extra session of Congress would be called; and I felt desirous to co-operate with my political and personal friends in restoring, if it could be effected, the prosperity of the country, by the best measures which their united counsels might be able to devise; and I therefore attended the extra session. It was called, as all know, by the lamented Harrison; but his death, and the consequent accession of his successor, produced an entirely new aspect of public affairs. Had he lived, I have not one particle of doubt that every important measure to which the country had looked with so confident an expectation would have been consummated, by the co-operation of the executive with the legislative branch of the government. And here allow me to say, only, in regard to that so-much-reproached extra session of Congress, that I believe if any of those, who, through the influence of party spirit, or the bias of political prejudice, have loudly censured the measures then adopted, would look at them in a spirit of candor and of justice, their conclusion, and that of the country generally, would be, that if there exists any just ground of complaint, it is to be found not in what was done, but in what was not done, but left unfinished.

Had President Harrison lived, and the measures devised at that session been fully carried out, it was my intention then to have resigned my seat. But the hope (I feared it might prove vain) that, at the regular session, the measures which we had left undone might even then be perfected, or the

same object attained in an equivalent form, induced me to postpone the determination; and events which arose after the extra session, resulting from the failure of those measures which had been proposed at that session, and which seemed for the moment to subject our political friends to the semblance of defeat, confirmed me in the resolution to attend the present session also, and, whether in prosperity or adversity, to share the fortune of my friends. But I resolved, at the same time, to retire as soon as I could do so with propriety and decency.

From 1806, the period of my entrance upon this noble theater, with short intervals, to the present time, I have been engaged in the public councils, at home or abroad. Of the services rendered during that long and arduous period of my life it does not become me to speak; history, if she deign to notice me, and posterity, if the recollection of my humble actions shall be transmitted to posterity, are the best, the truest, and the most impartial judges. When death has closed the scene, their sentence will be pronounced, and to that I commit myself. My public conduct is a fair subject for the criticism and judgment of my fellow-men; but the motives by which I have been prompted are known only to the great Searcher of the human heart and to myself; and I trust I may be pardoned for repeating a declaration made some thirteen years ago, that, whatever errors, and doubtless there have been many, may be discovered in a review of my public service, I can with unshaken confidence appeal to that divine arbiter for the truth of the declaration, that I have been influenced by no impure purpose, no personal motive; have sought no personal aggrandizement; but that in all my public acts, I have had a single eye directed, and a warm and devoted heart dedicated, to what, in my best judgment, I believed, the true interests, the honor, the union, and the happiness of my country required.

During that long period, however, I have not escaped the fate of other public men, nor failed to incur censure and detraction of the bitterest, most unrelenting, and most malignant character; and though not always insensible to the pain it was meant to inflict, I have borne it in general with composure, and without disturbance here [pointing to his breast], waiting as I have done, in perfect and undoubting confidence, for the ultimate triumph of justice and of truth, and in the entire persuasion that time would settle all things as they should be, and that whatever wrong or injustice I might experience at the hands of man, He to whom all hearts are open and fully known, would, by the inscrutable dispensations of his providence, rectify all error, redress all wrong, and cause ample justice to be done.

But I have not meanwhile been unsustained. Everywhere throughout the extent of this great continent I have had cordial, warm-hearted, faithful, and devoted friends, who have known me, loved me, and appreciated my motives. To them, if language were capable of fully expressing my acknowledgments, I would now offer all the return I have the power to

make for their genuine, disinterested, and persevering fidelity and devoted attachment, the feelings and sentiments of a heart overflowing with never-ceasing gratitude. If, however, I fail in suitable language to express my gratitude to them for all the kindness they have shown me, what shall I say, what can I say at all commensurate with those feelings of gratitude with which I have been inspired by the State whose humble representative and servant I have been in this chamber? [Here Mr. Clay's feelings overpowered him, and he proceeded with deep sensibility and difficult utterance.]

I emigrated from Virginia to the State of Kentucky now nearly forty-five years ago; I went as an orphan boy who had not yet attained the age of majority; who had never recognized a father's smile, nor felt his warm caresses; poor, penniless, without the favor of the great, with an imperfect and neglected education, hardly sufficient for the ordinary business and common pursuits of life; but scarce had I set my foot upon her generous soil when I was embraced with parental fondness, caressed as though I had been a favorite child, and patronized with liberal and unbounded munificence. From that period the highest honors of the State have been freely bestowed upon me; and when, in the darkest hour of calumny and detraction, I seemed to be assailed by all the rest of the world, she interposed her broad and impenetrable shield, repelled the poisoned shafts that were aimed for my destruction, and vindicated my good name from every malignant and unfounded aspersion. I return with indescribable pleasure to linger a while longer, and mingle with the warm-hearted and whole-souled people of that State; and, when the last scene shall forever close upon me, I hope that my earthly remains will be laid under her green sod with those of her gallant and patriotic sons.

But the ingenuity of my assailants is never exhausted. It seems I have subjected myself to a new epithet; which I do not know whether to take in honor or derogation: I am held up to the country as a "dictator." A dictator! The idea of a dictatorship is drawn from Roman institutions; and at the time the office was created, the person who wielded the tremendous weight of authority it conferred, concentrated in his own person an absolute power over the lives and property of all his fellow-citizens; he could levy armies; he could build and man navies; he could raise any amount of revenue he might choose to demand; and life and death rested on his fiat. If I were a dictator, as I am said to be, where is the power with which I am clothed? Have I any army? any navy? any revenue? any patronage? in a word, any power whatever? If I had been a dictator, I think that even those who have the most freely applied to me the appellation must be compelled to make two admissions: first, that my dictatorship has been distinguished by no cruel executions, stained by no blood, sullied by no act of dishonor; and I think they must also own (though I do not exactly know what date my commission of dictator bears; I suppose, however, it must have commenced with the extra session) that if I did usurp the power of a dictator, I at least voluntarily surrendered it

within a shorter period than was allotted for the duration of the dictatorship of the Roman commonwealth.

If to have sought at the extra session and at the present, by the co-operation of my friends, to carry out the great measures intended by the popular majority of 1840, and to have earnestly wished that they should all have been adopted and executed; if to have ardently desired to see a disordered currency regulated and restored, and irregular exchanges equalized and adjusted; if to have labored to replenish the empty coffers of the treasury by suitable duties; if to have endeavored to extend relief to the unfortunate bankrupts of the country, who had been ruined in a great measure by the erroneous policy, as we believed, of this government; to limit, circumscribe, and reduce executive authority; to retrench unnecessary expenditure and abolish useless offices and institutions; and the public honor to preserve untarnished by supplying a revenue adequate to meet the national engagements and incidental protection to the national industry; if to have entertained an anxious solicitude to redeem every pledge, and execute every promise fairly made by my political friends, with a view to the acquisition of power from the hands of an honest and confiding people; if these constitute a man a DICTATOR, why, then, I must be content to bear, although I still ought only to share with my friends, the odium or the honor of the epithet, as it may be considered on the one hand or the other.

That my nature is warm, my temper ardent, my disposition, especially in relation to the public service, enthusiastic, I am ready to own; and those who suppose that I have been assuming the dictatorship, have only mistaken for arrogance or assumption that ardor and devotion which are natural to my constitution, and which I may have displayed with too little regard to cold, calculating, and cautious prudence, in sustaining and zealously supporting important national measures of policy which I have presented and espoused.

In the course of a long and arduous public service, especially during the last eleven years in which I have held a seat in the Senate, from the same ardor and enthusiasm of character, I have no doubt, in the heat of debate, and in an honest endeavor to maintain my opinions against adverse opinions alike honestly entertained, as to the best course to be adopted for the public welfare, I may have often inadvertently and unintentionally, in moments of excited debate, made use of language that has been offensive, and susceptible of injurious interpretation toward my brother senators. If there be any here who retain wounded feelings, of injury or dissatisfaction produced on such occasions, I beg to assure them that I now offer the most ample apology for any departure on my part from the established rules of parliamentary decorum and courtesy. On the other hand, I assure senators, one and all, without exception, and without reserve, that I retire from this chamber without carrying with me a single feeling of resentment or dissatisfaction to the Senate or any one of its members.

I go from this place under the hope that we shall, mutually, consign to perpetual oblivion whatever personal collisions may at any time unfortunately have occurred between us; and that our recollections shall dwell in future only on those conflicts of mind with mind, those intellectual struggles, those noble exhibitions of the powers of logic, argument, and eloquence, honorable to the Senate and to the nation, in which each has sought and contended for what he deemed the best mode of accomplishing one common object, the interest and the most happiness of our beloved country. To these thrilling and delightful scenes it will be my pleasure and my pride to look back in my retirement with unmeasured satisfaction.

And now, Mr. President, allow me to make the motion which it was my object to submit when I rose to address you. I present the credentials of my friend and successor. If any void has been created by my withdrawal from the Senate, it will be amply filled by him, whose urbanity, whose gallant and gentlemanly bearing, whose steady adherence to principle, and whose rare and accomplished powers in debate, are known to the Senate and to the country. I move that his credentials be received, and that the oath of office be now administered to him.

In retiring, as I am about to do, forever, from the Senate, suffer me to express my heartfelt wishes that all the great and patriotic objects of the wise framers of our Constitution may be fulfilled; that the high destiny designed for it may be fully answered; and that its deliberations, now and hereafter, may eventuate in securing the prosperity of our beloved country, in maintaining its rights and honor abroad, and upholding its interests at home. I retire, I know, at a period of infinite distress and embarrassment. I wish I could take my leave of you under more favorable auspices; but, without meaning at this time to say whether on any or on whom reproaches for the sad condition of the country should fall, I appeal to the Senate and to the world to bear testimony to my earnest and continued exertions to avert it, and to the truth that no blame can justly attach to me.

May the most precious blessings of heaven rest upon the whole Senate and each member of it, and may the labors of every one redound to the benefit of the nation and to the advancement of his own fame and renown. And when you shall retire to the bosom of your constituents, may you receive the most cheering and gratifying of all human rewards—their cordial greeting of "Well done, good and faithful servant."

And now, Mr. President, and senators, I bid you all a long, a lasting, and a friendly farewell.

Mr. Crittenden was then duly qualified, and took his seat; when

Mr. Preston rose, and said: What had just taken place was an epoch in their legislative history, and from the feeling which was evinced, he plainly saw that there was little disposition to attend to business. He would therefore move that the Senate adjourn; which motion was unanimously agreed to.

ON RETIRING TO PRIVATE LIFE.

LEXINGTON, JUNE 9, 1842.

[As will have been seen, the preceding speech is a record of Mr. Clay's adieu to the Senate of the United States. The following is an address to his fellow-citizens and neighbors, assembled to welcome his return to dwell among them, after thirty-nine years of public service, counting the time of his being a member of the Legislature of Kentucky. He was elected to that body in 1803, and sent to the Senate of the United States in 1806. There was indeed a brief interval of absence from Congress—a year or two—to repair his private fortune. If we include his last term of service in the Senate of the United States, to which he was returned in 1849, and died a member in 1852, he was over forty years in the public service, nearly all in that of the United States—a longer period, we believe, than that of any other public man in the history of the country.

Mr. Clay was now a private citizen, in the midst of those who had welcomed him, a young man and stranger, to Kentucky; who adopted him as a son, whose appreciation of his talents and whose partiality made him what he was; who had cherished and sustained him in all his labors and battles, and who now looked up to him as a friend and father. They loved him with undying affection, and their love was reciprocated.

It was in the midst of such an assembly—a vast concourse—of such recollections, associations, and sympathies, that the following speech was delivered. It will be observed, that Mr. Clay was much accustomed to begin his speeches with allusion to the circumstances of the occasion, with his heart and eyes often raised to heaven in recognition of Divine Providence, in gratitude for blessings received, or imploring Divine aid and favor for himself and for his country. In the present instance, it was an expression of thanks for a recent copious and much-needed rain. No man ever heard Mr. Clay speak disrespectfully of religion, or knew him fail to show it reverence on fit occasions. A senti-

ment of piety seemed always to lie side by side in his bosom with the better feelings of his nature, and the last years of his life furnish most satisfactory evidence of his Christian character. As the world receded, heaven seemed to open on his view. He died in hope of a glorious resurrection.

But to return. Having recognized the friendly greetings of the occasion, it was naturally expected that Mr. Clay would speak on public affairs; and his speech is a brief résumé of the state of the country, and of the causes which produced it. It was made in response to the following sentiment, given by Judge Robertson, who presided on the occasion:

HENRY CLAY—Farmer of Ashland, Patriot and Philanthropist—the AMERICAN Statesman, and unrivaled Orator of the Age—illustrious abroad, beloved at home: in a long career of eminent public service, often, like Aristides, he breasted the raging storm of passion and delusion, and by offering himself a sacrifice, saved the republic; and now, like Cincinnatus and Washington, having voluntarily retired to the tranquil walks of private life, the grateful hearts of his countrymen will do him ample justice; but come what may, Kentucky will stand by him, and still continue to cherish and defend, as her own, the fame of a son who has emblazoned her escutcheon with immortal renown.]

MR. PRESIDENT, LADIES, AND GENTLEMEN:

It was given to our countryman, Franklin, to bring down the lightning from heaven. To enable me to be heard by this immense multitude, I should have to invoke to my aid, and to throw into my voice, its loudest thunders. As I can not do that, I hope I shall be excused for such a use of my lungs as is practicable, and not inconsistent with the preservation of my health. And I feel that it is our first duty to express our obligations to a kind and bountiful Providence, for the copious and genial showers with which he has just blessed our land—a refreshment of which it stood much in need. For one, I offer to him my humble and dutiful thanks. The inconvenience to us, on this festive occasion, is very slight, while the sum of good which these timely rains will produce, is very great and encouraging.

Fellow-citizens, I find myself now in a situation somewhat like one in which I was placed a few years ago, when traveling through the State of Indiana, from which my friend (Mr. Rariden) near me comes. I stopped at a village containing some four or five hundred inhabitants, and I had scarcely alighted before I found myself surrounded in the bar-room by every adult male resident of the place. After a while, I observed a group consulting together in one corner of the room, and shortly after, I was diffidently approached by one of them, a tall, lank, lean, but sedate and sober-looking person, with a long face and high cheek bones, who, addressing me, said he was commissioned by his neighbors to request that I would

say a few words to them. Why, my good friend, said I, I should be very happy to do any thing gratifying to yourself and your neighbors, but I am very much fatigued, and hungry, and thirsty, and I do not think the occasion is exactly suitable for a speech, and I wish you would excuse me to your friends. Well, says he, Mr. Clay, I confess I thought so myself, especially as we have no wine to offer you to drink!

Now, if the worthy citizen of Indiana was right in supposing that a glass of wine was a necessary preliminary, and a precedent condition to the delivery of a speech, you have no just right to expect one from me at this time; for, during the sumptuous repast from which we have just risen, you have offered me nothing to drink but cold water—excellent water, it is true, from the classic fountain of our lamented friend Mr. Maxwell, which has so often regaled us on celebrations of our great anniversary. [Great laughter.]

I protest against any inference of my being inimical to the temperance cause. On the contrary, I think it an admirable cause, that has done great good, and will continue to do good as long as legal coercion is not employed, and it rests exclusively upon persuasion, and its own intrinsic merits.

I have a great and growing repugnance to speaking in the open air to a large assemblage. But while the faculty of speech remains to me, I can never feel that repugnance, never feel other than grateful sensations, in making my acknowledgments under such circumstances as those which have brought us together. Not that I am so presumptuous as to believe that I have been the occasion solely of collecting this vast multitude. Among the inducements, I can not help thinking that the fat white virgin Durham heifer of my friend, Mr. Berryman, that cost six hundred dollars, which has been just served up, and the other good things which have been so liberally spread before us, exerted some influence in swelling this unprecedentedly large meeting. [Great laughter.]

I can not but feel, Mr. President, in offering my respectful acknowledgment for the honor done me, in the eloquent address which you have just delivered, and in the sentiment with which you concluded it, that your warm partiality, and the fervent friendship which has so long existed between us, and the kindness of my neighbors and friends around me, have prompted an exaggerated description, in too glowing colors, of my public services and my poor abilities.

I seize the opportunity to present my heartfelt thanks to the whole people of Kentucky, for all the high honors and distinguished favors which I have received, during a long residence with them, at their hands; for the liberal patronage which I received from them in my professional pursuit; for the eminent places in which they have put me, or enabled me to reach; for the generous and unbounded confidence which they have bestowed upon me, at all times; for the gallant and unswerving fidelity and attachment with which they stood by me, throughout all the trials and

vicissitudes of an eventful and arduous life; and above all, for the scornful indignation with which they repelled an infamous calumny directed against my name and fame, at a momentous period of my public career. In recalling to our memory but the circumstances of that period, one can not but be filled with astonishment at the indefatigability with which the calumny was propagated, and the zealous partisan use to which it was applied, not only without evidence, but in the face of a full and complete refutation. Under whatever deception, delusion, or ignorance, it was received elsewhere, with you, my friends and neighbors, and with the good people of Kentucky, it received no countenance; but in proportion to the venom and malevolence of its circulation was the vigor and magnanimity with which I was generally supported. Upheld with the consciousness of the injustice of the charge, I should have borne myself with becoming fortitude, if I had been abandoned by you as I was by so large a portion of my countrymen. But to have been sustained and vindicated as I was, by the people of my own State, by you who know me best, and whom I had so many reasons to love and esteem, greatly cheered and encouraged me, in my onward progress. Eternal thanks and gratitude are due from me.

I thank you, friends and fellow-citizens, for your distinguished and enthusiastic reception of me this day; and for the excellence and abundance of the barbecue that has been provided for our entertainment, And I thank, from the bottom of my heart, my fair countrywomen, for honoring, and gracing, and adding brilliancy to this occasion, by their numerous attendance. If the delicacy and refinement of their sex will not allow them to mix in the rougher scenes of human life, we may be sure that whenever, by their presence, their smiles and approbation are bestowed, it is no ordinary occurrence. That presence is always an absolute guaranty of order, decorum, and respect. I take the greatest pleasure in bearing testimony to their value and their virtue. I have ever found in them true and steadfast friends, generously sympathizing in distress, and, by their courageous fortitude in bearing it themselves, encouraging us to imitate their example. And we all know and remember how, as in 1840, they can powerfully aid a great and good cause, without any departure from the propriety or dignity of their sex.

In looking back upon my origin and progress through life, I have great reason to be thankful. My father died in 1781, leaving me an infant of too tender years to retain any recollection of his smiles or endearments. My surviving parent removed to this State in 1792, leaving me, a boy of fifteen years of age, in the office of the high court of chancery, in the city of Richmond, without guardian, without pecuniary means of support, to steer my course as I might or could. A neglected education was improved by my own irregular exertions, without the benefit of systematic instruction. I studied law principally in the office of a lamented friend, the late Governor Brooke, then Attorney General of Virginia, and also under the

auspices of the venerable and lamented Chancellor Wythe, for whom I had acted as an amanuensis. I obtained a license to practice the profession from the judges of the court of appeals of Virginia, and established myself in Lexington, in 1797, without patrons, without the favor or countenance of the great or opulent, without the means of paying my weekly board, and in the midst of a bar uncommonly distinguished by eminent members. I remember how comfortable I thought I should be, if I could make one hundred pounds, Virginia money, per year, and with what delight I received the first fifteen shillings fee. My hopes were more than realized. I immediately rushed into a successful and lucrative practice.

In 1803 or 4, when I was absent from the county of Fayette, at the Olympian springs, without my knowledge or previous consent, I was brought forward as a candidate, and elected to the General Assembly of this State. I served in that body several years, and was then transferred to the Senate, and afterward to the House of Representatives of the United States. I will not dwell on the subsequent events of my political life, or enumerate the offices which I have filled. During my public career, I have had bitter, implacable, reckless enemies. But if I have been the object of misrepresentation and unmerited calumny, no man has been beloved or honored by more devoted, faithful, and enthusiastic friends. I have no reproaches, none, to make toward my country, which has distinguished and elevated me far beyond what I had any right to expect. I forgive my enemies, and hope they may live to obtain the forgiveness of their own hearts.

It would neither be fitting nor is it my purpose to pass judgment on all the acts of my public life; but I hope I shall be excused for one or two observations, which the occasion appears to me to authorize.

I never but once changed my opinion on any great measure of national policy, or on any great principle of construction of the national Constitution. In early life, on deliberate consideration, I adopted the principles of interpreting the federal Constitution, which have been so ably developed and enforced by Mr. Madison, in his memorable report to the Virginia Legislature, and to them, as I understood them, I have constantly adhered. Upon the question coming up in the Senate of the United States to re-charter the first bank of the United States, thirty years ago, I opposed the re-charter, upon convictions which I honestly entertained. The experience of the war, which shortly followed, the condition into which the currency of the country was thrown, without a bank, and, I may now add, later and more disastrous experience, convinced me I was wrong. I publicly stated to my constituents, in a speech in Lexington (that which I made in the House of Representatives of the United States, not having been reported), my reasons for that change, and they are preserved in the archives of the country. I appeal to that record, and I am willing to be judged now and hereafter by their validity.

I do not advert to the fact of this solitary instance of change of opinion, as implying any personal merit, but because it is a fact. I will, however, say that I think it very perilous to the utility of any public man, to make frequent changes of opinion, or any change, but upon grounds so sufficient and palpable, that the public can clearly see and approve them. If we could look through a window into the human breast, and there discover the causes which led to changes of opinion, they might be made without hazard. But as it is impossible to penetrate the human heart, and distinguish between the sinister and honest motives which prompt it, any public man that changes his opinion, once deliberately formed and promulgated, under other circumstances than those which I have stated, draws around him distrust, impairs the public confidence, and lessens his capacity to serve his country.

I will take this occasion now to say, that I am, and have been long satisfied that it would have been wiser and more politic in me, to have declined accepting the office of Secretary of State in 1825. Not that my motives were not as pure and as patriotic as ever carried any man into public office. Not that the calumny which was applied to the fact was not as gross and as unfounded as any that was ever propagated. [Here some body cried out that Mr. Carter Beverly, who had been made the organ of announcing it, had recently borne testimony to its being unfounded. Mr. Clay said it was true that he had voluntarily borne such testimony. But, with great earnestness and emphasis, Mr. Clay said, I want no testimony, here, here, here, HERE—repeatedly touching his heart, amidst tremendous cheers—here is the best of all witnesses of my innocence.] Not that valued friends, and highly esteemed opponents did not unite in urging my acceptance of the office. Not that the administration of Mr. Adams will not, I sincerely believe, advantageously compare with any of his predecessors, in economy, purity, prudence, and wisdom. Not that Mr. Adams was himself wanting in any of those high qualifications and upright and patriotic intentions which were suited to the office. Of that extraordinary man, of rare and varied attainments, whatever diversity of opinion may exist as to his recent course in the House of Representatives (and candor obliges me to say that there are some things in it which I deeply regret), it is with no less truth than pleasure, I declare that, during the whole period of his administration, annoyed, assailed, and assaulted as it was, no man could have shown a more devoted attachment to the Union, and all its great interests, a more ardent desire faithfully to discharge his whole duty, or brought to his aid more useful experience and knowledge, than he did. I never transacted business with any man, in my life, with more ease, satisfaction, and advantage, than I did with that most able and indefatigable gentleman, as President of the United States. And I will add, that more harmony never prevailed in any cabinet than in his.

But my error in accepting the office, arose out of my under-rating the

power of detraction and the force of ignorance, and abiding with too sure a confidence in the conscious integrity and uprightness of my own motives. Of that ignorance, I had a remarkable and laughable example on an occasion which I will relate. I was traveling, in 1828, through I believe it was Spottsylvania county, in Virginia, on my return to Washington, in company with some young friends. We halted at night at a tavern, kept by an aged gentleman, who, I quickly perceived, from the disorder and confusion which reigned, had not the happiness to have a wife. After a hurried and bad supper, the old gentleman sat down by me, and without hearing my name, but understanding that I was from Kentucky, remarked that he had four sons in that State, and that he was very sorry they were divided in politics, two being for Adams and two for Jackson: he wished they were all for Jackson. Why? I asked him. Because, he said, that fellow Clay, and Adams, had cheated Jackson out of the presidency. Have you ever seen any evidence, my old friend, said I, of that? No, he replied, none, and he wanted to see none. But, I observed, looking him directly and steadily in the face, suppose Mr. Clay were to come here and assure you, upon his honor, that it was all a vile calumny, and not a word of truth in it, would you believe him? No, replied the old gentleman, promptly and emphatically. I said to him, in conclusion, will you be good enough to show me to bed? and bade him good night. The next morning, having in the interval learned my name, he came to me full of apologies; but I at once put him at his ease by assuring him that I did not feel in the slightest degree hurt or offended with him.

Mr. President, I have been accused of ambition, often accused of ambition. I believe, however, that my accusers will be generally found to be political opponents, or the friends of aspirants in whose way I was supposed to stand; and it was thought, therefore, necessary to shove me aside. I defy my enemies to point out any act or instance of my life, in which I have sought the attainment of office by dishonorable or unworthy means. Did I display inordinate ambition when, under the administration of Mr. Madison, I declined a foreign mission of the first grade, and an executive department, both of which he successively kindly tendered to me? when, under that of his successor, Mr. Monroe, I was first importuned (as no one knows better than that sterling old patriot, Jonathan Roberts, now threatened, as the papers tell us, with expulsion from an office which was never filled with more honesty and uprightness, because he declines to be a servile instrument), to accept a secretaryship, and was afterwards offered a *carte blanche* of all the foreign missions? At the epoch of the election of 1825, I believe no one doubted at Washington that, if I had felt it my duty to vote for General Jackson, he would have invited me to take charge of a department. And such undoubtedly Mr. Crawford would have done if he had been elected. When the Harrisburg convention assembled, the general expectation was that the nomination would be given to me. It was given to the lamented Harrison. Did I

exhibit extraordinary ambition when, cheerfully acquiescing, I threw myself into the canvass and made every exertion in my power to insure it success? Was it evidence of unchastened ambition in me to resign, as I recently did, my seat in the Senate—to resign the dictatorship, with which my enemies had so kindly invested me, and come home to the quiet walks of private life?

But I am ambitious because some of my countrymen have seen fit to associate my name with the succession for the presidential office. Do those who prefer the charge know what I have done, or not done, in connection with that object? Have they given themselves the trouble to inquire at all into any agency of mine in respect to it? I believe not. It is a subject which I approach with all the delicacy which belongs to it, and with a due regard to the dignity of the exalted station; but on which I shall, at the same time, speak to you, my friends and neighbors, without reserve, and with the utmost candor.

I have prompted none of those movements among the people, of which we have seen accounts. As far as I am concerned they are altogether spontaneous, and not only without concert with me, but most generally without any sort of previous knowledge on my part. That I am thankful and grateful, profoundly grateful, for these manifestations of confidence and attachment, I will not conceal or deny. But I have been, and mean to remain, a passive, if not an indifferent spectator. I have reached a time of life, and seen enough of high official stations to enable me justly to appreciate their value, their cares, their responsibilities, their ceaseless duties. That estimate of their worth, in a personal point of view, would restrain me from seeking to fill any one, the highest of them, in a scramble of doubtful issue with political opponents, much less with political friends. That I should feel greatly honored by a call from a majority of the people of this country, to the highest office within their gift, I shall not deny; nor, if my health were preserved, might I feel at liberty to decline a summons so authoritative and commanding. But I declare most solemnly that I have not, up to this moment, determined whether I will consent to the use of my name or not as a candidate for the chief magistracy. That is a grave question, which should be decided by all attainable lights, which, I think, is not necessary yet to be decided, and a decision of which I reserve to myself, as far as I can reserve it, until the period arrives when it ought to be solved. That period has not, as I think, yet arrived. When it does, an impartial survey of the whole ground should be taken, the state of public opinion properly considered, and one's personal condition, physical and intellectual, duly examined and weighed. In thus announcing a course of conduct for myself, it is hardly necessary to remark that it is no part of my purpose to condemn, or express any opinion whatever upon those popular movements which have been made, or may be contemplated, in respect to the next election of a President of the United States.

If to have served my country during a long series of years with fervent zeal and unshaken fidelity, in seasons of peace and war, at home and abroad, in the legislative halls and in an executive department; if to have labored most sedulously to avert the embarrassment and distress which now overspread this Union, and, when they came, to have exerted myself anxiously at the extra session, and at this, to devise healing remedies; if to have desired to introduce economy and reform in the general administration, curtail enormous executive power, and amply provide, at the same time, for the wants of the government and the wants of the people, by a tariff which would give it revenue and them protection; if to have earnestly sought to establish the bright but too rare example of a party in power faithful to its promises and pledges made when out of power; if these services, exertions, and endeavors, justify the accusation of ambition, I must plead guilty to the charge.

I have wished the good opinion of the world; but I defy the most malignant of my enemies to show that I have attempted to gain it by any low or groveling arts, by any mean or unworthy sacrifices, by the violation of any of the obligations of honor, or by a breach of any of the duties which I owed to my country.

I turn, sir, from these personal allusions and reminiscences, to the vastly more important subject of the present actual condition of this country. If they could ever be justifiable or excusable it would be on such an occasion as this, when I am addressing those to whom I am bound by so many intimate and friendly ties.

In speaking of the present state of the country, it will be necessary for me to touch with freedom and independence upon the past as well as the present, and upon the conduct, spirit, and principles of parties. In doing this, I assure my democratic brethren and fellow-citizens, of whom I am told there are many here present (and I tender them my cordial thanks for the honor done me by their attendance here this day, with as much sincerity and gratitude as if they agreed with me in political sentiment), that nothing is further from my intention than to say one single word that ought to wound their feelings or give offense to them. But surely, if there ever was a period in the progress of any people, when all were called upon, with calmness and candor, to consider thoroughly the present posture of public and private affairs, and deliberately to inquire into the causes and remedies of this unpropitious state of things, we have arrived at that period in the United States. And if ever a people stood bound by the highest duties to themselves and to their posterity, to sacrifice upon the altar of their country cherished prejudices and party predilections and antipathies, we are now called upon to make that sacrifice if necessary.

What is our actual condition? It is one of unexampled distress and embarrassment, as universal as it is intense, pervading the whole community and sparing none; property of all kinds, and everywhere, fallen and falling in value; agricultural produce of every description at the most

reduced prices; money unsound and at the same time scarce, and becoming more scarce by preparations, of doubtful and uncertain issue, to increase its soundness; all the departments of business inactive and stagnant; exchanges extravagantly high, and constantly fluctuating; credit, public and private, at the lowest ebb, and confidence lost; and a feeling of general discouragement and depression. And what darkens the gloom which hangs over the country, no one can discern any termination of this sad state of things, nor see in the future any glimpses of light or hope.

Is not this a faithful, although appalling picture of the United States in 1842? I appeal to all present, whigs and democrats, ladies and gentlemen, to say if it be at all too high colored.

Now let us see what was our real condition only the short time of ten years ago. I had occasion, in February, 1832, in the Senate of the United States, when I was defending the American system against the late Colonel Hayne, of South Carolina, to describe it; and I refer to this description as evidence of what I believed to be the state of the country at that time. That it conformed to the truth of the case, I appeal with confidence to those now present. On that occasion, among other things, I said:

"I have now to perform the more pleasing task of exhibiting an imperfect sketch of the existing state of the unparalleled prosperity of the country. On a general survey, we behold cultivation extended, the arts flourishing, the face of the country improved, our people fully and profitably employed, and the public countenance exhibiting tranquillity, contentment, and happiness. And if we descend into particulars, we have the agreeable contemplation of a people out debt, land rising slowly in value, but in a secure and salutary degree; a ready, though not extravagant market for all the surplus productions of our industry; innumerable flocks and herds browsing and gamboling on ten thousand hills and plains, covered with rich and verdant grasses; our cities expanded, and whole villages springing up, as it were, by enchantment; our exports and our imports increased and increasing; our tonnage, foreign and coastwise, swelling and fully occupied; the rivers of our interior animated by the perpetual thunder and lightning of countless steamboats; the currency sound and abundant; the public debt of two wars nearly redeemed; and, to crown all, the public treasury overflowing, embarrassing Congress, not to find subjects of taxation, but to select the objects which shall be liberated from the impost. If the term of seven years were to be selected of the greatest prosperity which this people have enjoyed since the establishment of their present Constitution, it would be exactly that period of seven years which immediately followed the passage of the tariff of 1824."

And that period embraced the whole term of the administration of Mr. John Quincy Adams, which has been so unjustly abused!

The contrast in the state of the country at the two periods of 1832 and 1842, is most remarkable and startling. What has precipitated us from that great height of enviable prosperity down to the lowest depths of pecuniary embarrassment? What has occasioned the wonderful change?

No foreign foe has invaded and desolated the country. We have had neither famine nor earthquakes. That there exists a cause there can be no doubt; and I think it equally clear that the cause, whatever it may be, must be a general one; for nothing but a general cause could have produced such wide-spread ruin; and everywhere we behold the same or similar effects, every interest affected, every section of the Union suffering, all descriptions of produce and property depressed in value. And while I endeavor to find out that cause, and to trace to their true source the disastrous effects which we witness and feel, and lament, I entreat the democratic portion of my audience, especially, to listen with patience and candor, and dismissing for a moment party biases and prejudices, to decide with impartiality and in a spirit of genuine patriotism.

It has been said by those in high authority, that the people are to blame and not the government, and that the distresses of the country have proceeded from speculation and over-trading. The people have been even reproached for expecting too much from government, and not relying sufficiently upon their own exertions. And they have been reminded that the highest duty of the government is to take care of itself, leaving the people to shift for themselves as well as they can. Accordingly we have seen the government retreating from the storm which it will be seen, in the sequel, itself created, and taking shelter under the sub-treasury.

That there has been some speculation and over-trading, may be true; but all have not speculated and over-traded; while the distress reaches, if not in the same degree, the cautious and the prudent, as well as the enterprising and venturous. The error of the argument consists in mistaking the effect for the cause. What produced the over-trading? What was the cause of speculation? How were the people tempted to abandon the industrious and secure pursuits of life, and embark in doubtful and perilous, but seducing enterprises? That is the important question.

Now, fellow-citizens, I take upon myself to show that the people have been far less to blame than the general government, and that whatever of error they committed, was the natural and inevitable consequence of the unwise policy of their rulers. To the action of government is mainly to be ascribed the disorders, embarrassment, and distress, which all have now so much reason to deplore. And, to be yet more specific, I think they are to be fairly attributed to the action of the executive branch of the federal government.

Three facts or events, all happening about the same time, if their immediate effects are duly considered, will afford a clear and satisfactory solution of all the pecuniary evils which now unhappily afflict this country.

The first was the veto of the re-charter of the bank of the United States. The second was the removal of the deposits of the United States from that bank to local banks. And the third was the refusal of the President of the United States, by an arbitrary stretch of power, to sanction the passage of the land bill. These events all occurred, in quick

succession, in 1832–3, and each of them deserves particular consideration.

First. When the bank of the United States had fully recovered from the errors of its early administration, and at the period when it was proposed to re-charter it, it furnished the best currency that ever existed, possessing not merely unbounded confidence in the United States, but throughout the whole commercial world. No institution was ever more popular, and the utility of a bank of the United States was acknowledged by President Jackson in his veto message, in which he expressly stated, that he could have suggested to Congress the plan of an unexceptionable charter, if application had been made to him. And I state as a fact, what many, I am sure, will here remember and sustain, that in the canvass then going on for the presidency, many of his friends in this State gave assurances that, in the event of his re-election, a bank of the United States would be established.

It was held out to the people that a better currency should be supplied, and a more safe and faithful execution of the fiscal duties toward the government would be performed by the local banks than by the bank of the United States.

What was the immediate effect of the overthrow of that institution? The establishment of innumerable local banks, which sprung up everywhere, with a rapidity to which we can not look back without amazement. A respectable document which I now hold in my hand, I believe correctly states, that "in 1830 the aggregate banking capital of the Union was one hundred and forty-five million, one hundred and ninety thousand, two hundred and sixty-eight dollars. Within two years after the removal of the deposits, the banking capital had swollen to three hundred and thirty-one million, two hundred and fifty thousand, three hundred and thirty-seven dollars, and in 1837 it reached four hundred and forty million, one hundred and ninety-five thousand, seven hundred and ten dollars. While the United States bank was in existence, the local banks, not aspiring to the regulation of the currency, were chartered with small capitals as occasion and business required. After 1833 they were chartered without necessity, and multiplied beyond example. In December 1837, there were no less than seven hundred and nine State banks. Nearly four hundred banks sprung up upon the ruins of the United States bank, and two hundred and fifty million dollars of capital was incorporated, to supply the uses formerly discharged by the thirty-five million dollars capital of the bank of the United States. The impulse given to extravagance and speculation by this enormous increase of banking capital, was quickened by the circulars of the Treasury Department to these pet State banks that were made the custodians of the national revenue."

A vast proportion of these new banks—more, I believe, than four fifths—were chartered by Legislatures in which the democratic party had the undisputed ascendancy. I well remember that, in this State, the presses of

that party made a grave charge against me, of being inimical to the establishment here of State banks; and I was opposed to their establishment, until all prospect vanished of getting a bank of the United States.

The effect upon the country of this sudden increase, to such an immense amount, of the banking capital of the country, could not fail to be very great, if not disastrous. It threw out, in the utmost profusion, bank notes, post notes, checks, drafts, bills, and so forth. The currency thus put forth, the people had been assured, was better than that supplied by the bank of the United States; and, after the removal of the deposits, the local banks were urged and stimulated, by the Secretary of the Treasury, freely to discount and accommodate, upon the basis of those deposits. Flooded as the country was, by these means and in this way, with all species of bank money and facilities, is it surprising that they should have rushed into speculation, and freely adventured in the most desperate enterprises? It would have been better to have avoided them; it would have been better that the people should have been wiser and more prudent than government; but who is most to blame, they who yielded to temptation so thrown before them—they who yielded confidence to their rulers—they who could not see when this inordinate issue of money was to cease, or to become vitiated—or government, that tempted, seduced, and betrayed them?

And now, fellow-citizens, do let us, in calmness and candor, revert for a moment to some of the means which were employed to break down the bank of the United States, and to inflict upon the country all the sad consequences which ensued. I shall not stop to expose the motives of the assault upon that institution, and to show that it was because it refused to make itself basely and servilely instrumental to the promotion of political views and objects.

The bank was denounced as a monster, aiming, as was declared, to rob the people of their liberties, and to subvert the government of the country. The bank to subvert the government! Why, how could the bank continue to exist, after the overthrow of that government to which it was indebted for its existence, and in virtue of whose authority it could alone successfully operate? Convulsions, revolutions, civil wars, are not the social conditions most favorable to bank prosperity; but they flourish most when order, law, regularity, punctuality, and successful business prevail.

Rob the people of their liberties! And pray what would it do with them after the robbery was perpetrated? It could not put them in its vaults, or make interest or profit upon them—the leading, if not sole object of a bank. And how could it destroy the liberties of the people, without, at the same time, destroying the liberties of all persons interested or concerned in the bank? What is a bank? It is a corporation, the aggregate of whose capital is contributed by individual shareholders, and employed in pecuniary operations, under the management of official agents, called president, directors, cashier, tellers, and clerks. Now all these persons are usually citizens of the United States, just as much interested in

the preservation of the liberties of the country as any other citizens. What earthly motive could prompt them to seek the destruction of the liberty of their fellow-citizens, and with it their own?

The fate of the bank of the United States clearly demonstrated where the real danger to the public liberty exists. It was not in the bank. Its popularity had been great, and the conviction of its utility strong and general, up to the period of the bank veto. Unbounded as was the influence of President Jackson, and undisguised as his hostility was to the bank, he could not prevent the passage through Congress of a bill to re-charter it. In such favor and esteem was it held, that the Legislature of Pennsylvania, in which his friends had uncontrolled sway, almost unanimously recommended the re-charter. But his veto came; he blew his whistle for its destruction; it was necessary to sustain his party, which could only be done by sustaining him, and instantly, and everywhere, Down with the bank, and Huzza for the veto, became the watchwords and the rallying cry of his partisans. That same Legislature of Pennsylvania, now, with equal unanimity, approved the destruction of an institution which they had believed to be so indispensable to the public prosperity, and deluded people felt as if they had fortunately escaped a great national calamity!

The veto notwithstanding, the House of Representatives, by a large majority, resolved that the public deposits were safe in the custody of the bank of the United States, where they were placed, under the sanction and by the command of the law; and it was well known at Washington, that this resolution was passed in anticipation, and to prevent the possibility of their removal. In the face and in contempt of this decision of the representatives of the people, and in violation of a positive law, the removal was ordered by the president a few months after, the Secretary of the Treasury having been previously himself removed, to accomplish the object. And this brings me to consider the effect produced upon the business and interests of the country, by the

Second event to which I alluded. It is well known to be the usage of banks, to act upon the standing average amount of their deposits, as upon a permanent fund. The bank of the United States had so regulated its transactions upon the deposits of the United States, and had granted accommodations and extended facilities, as far as could be safely done on that basis. The deposits were removed and dispersed among various local banks, which were urged by an authority not likely to be disregarded, especially when seconding, as it did, their own pecuniary interests, to discount and accommodate freely on them. They did so, and thus these deposits performed a double office, by being the basis of bank facilities, first in the hands of the bank of the United States, and afterward in the possession of the local banks. A vast addition to the circulation of the country ensued, adding to that already so copiously put forth and putting forth, by the multitude of new banks which were springing up like mushrooms. That speculation and overtrading should have followed, were to have been

naturally expected. It is surprising that there were not more. Prices rose enormously, as another consequence; and thousands were tempted, as is always the case in an advancing market, to hold on or to make purchases, under the hope of prices rising still higher. A rush of speculators was made upon the public lands, and the money invested in their purchase, coming back to the deposit banks, was again and again loaned out to the same or other speculators, to make other and other purchases.

Who was to blame for this artificial and inflated state of things? Who for the speculation, which was its natural offspring? The policy of government, which produced it, or the people? The seducer or the seduced? The people, who only used the means so abundantly supplied, in virtue of the public authority, or our rulers, whose unwise policy tempted them into the ruinous speculation?

Third. There was a measure, the passage of which would have greatly mitigated this unnatural state of things. It was not difficult to foresee, after the veto of the bank, some of the consequences that would follow—the multiplication of banks, a superabundant currency, rash and inordinate speculation, and a probable ultimate suspension of specie payments. And the public domain was too brilliant and tempting a prize, not to be among the first objects that would attract speculation. In March, 1833, a bill passed both Houses of Congress, to distribute among the States the proceeds of sales of the public lands. It was a measure of strict justice to the States, and one of sound policy, as it respects the revenue of the United States; but the view which I now propose to take of it, applies altogether to the influence which it would have exerted upon circulation and speculation. It was the constitutional duty of the president to have returned the bill to Congress with his objections, if he were opposed to it, or with his sanction, if he approved it; but the bill fell by his arbitrarily withholding it from Congress.

Let us here pause and consider what would have been the operation of that most timely and salutary measure, if it had not been arrested. The bill passed in 1833, and in a short time after, the sales of the public lands were made to an unprecedented extent; insomuch that in one year they amounted to about twenty-five millions of dollars, and in a few years to an aggregate of about fifty millions of dollars. It was manifest, that if this fund, so rapidly accumulating, remained in the custody of the local banks, in conformity with the Treasury circular, and with their interests, it would be made the basis of new loans, new accommodations, fresh bank facilities. It was manifest that the same identical sum of money might, as it in fact did, purchase many tracts of land, by making the circuit from the land offices to the banks, and from the banks to the land offices, besides stimulating speculation in other forms.

Under the operation of the measure of distribution, that great fund would have been semi-annually returned to the States, and would have been applied, under the direction of their respective Legislatures, to various

domestic and useful purposes. It would have fallen upon the land, like the rains of heaven, in gentle, genial, and general showers, passing through a thousand rills, and fertilizing and beautifying the country. Instead of being employed in purposes of speculation, it would have been applied to the common benefit to the whole people. Finally, when the fund had accumulated and was accumulating in an alarming degree, it was distributed among the States by the deposit act, but so suddenly distributed, in such large masses, and in a manner so totally in violation of all the laws and rules of finance, that the crisis of suspension in 1837 was greatly accelerated. This would have been postponed, if not altogether avoided, if the land bill of 1833 had been approved and executed.

To these three causes, fellow-citizens, the veto of the bank of the United States, with the consequent creation of innumerable local banks, the removal of the deposits of the United States from the bank of the United States, and their subsequent free use, and the failure of the land bill of 1833, I verily believe, all, or nearly all, of the pecuniary embarrassments of the country are plainly attributable. If the bank had been re-chartered, the public deposits suffered to remain undisturbed where the law required them to be made, and the land bill had gone into operation, it is my firm conviction that we should have had no more individual distress and ruin than is common, in ordinary and regular times, to a trading and commercial community.

And do just now take a rapid view of the experiments of our rulers. They began with incontestably the best currency in the world, and promised a better. That better currency was to be supplied by the local banks; and in the first stages of the experiment, after the removal of the deposits, they were highly commended from high authority, for their beneficial and extensive operations in exchange, the financial facilities which they afforded to the government, and so forth. But the day of trouble and difficulty, which had been predicted, for the want of a United States bank, came. They could not stand the shock, but gave way, and the suspension of 1837 took place. Then what was the course of those same rulers? They had denounced and put down the bank of the United States. It was a monster. They had extolled and lavished praises on the local banks. Now, they turned round against the objects of their own creation and commendation. Now they were a brood of little monsters, corrupt and corrupting with separate privileges, preying upon the vitals of the States. They vehemently call out for a divorce of State and bank. And meanly retreating under the sub-treasury, from the storm which themselves had raised, leaving the people to suffer under all its pelting and pitiless rage, they add insult to injury, by telling them that they unreasonably expect too much from government, that they must take care of themselves, and that it is the highest and most patriotic duty of a free government to take care of itself, without regard to the sufferings and distresses of the people.

They began with the best currency, promised a better, and end with giving none! For we might as well resort to the costumes of our original parents in the garden of Eden, as, in this enlightened age, with the example of the commercial world before us, to cramp this energetic and enterprising people, by a circulation exclusively of the precious metals. Let us see how the matter stands with us here in Kentucky, and I believe we stand as well as the people do in most of the States. We have a circulation in bank notes amounting to about two millions and a half, founded upon specie in their vaults amounting to one million and a quarter, half the actual circulation. Have we too much money? [No! no! exclaimed many voices.] If all banks were put down, and all bank paper were annihilated, we should have just one half the money that we now have. I am quite sure that one of the immediate causes of our present difficulties, is a defect in the quantity as well as the quality of the circulating medium, and it would be impossible, if we were reduced to such a regimen as is proposed by the hard money theorists, to avoid stop laws, relief laws, repudiation, bankruptcies, and perhaps civil commotion.

I have traced the principal causes of the present embarrassed condition of the country, I hope with candor and fairness, and without giving offense to any of my fellow-citizens, who may have differed in political opinion from me. It would have been far more agreeable to my feelings to have dwelt, as I did in 1832, during the third year of the first term of President Jackson's administration, upon bright and cheering prospects of general prosperity. I thought it useful to contrast that period with the present one, and to inquire into the causes which have brought upon us such a sad and dismal reverse. A much more important object remains to me to attempt, and that is to point out remedies for existing evils and disorders.

And the first I would suggest, requires the co-operation of the government and the people: it is economy and frugality, strict and persevering economy, both in public and private affairs. Government should incur or continue no expense that can be justly and honorably avoided, and individuals should do the same. The prosperity of the country has been impaired by causes operating throughout several years, and it will not be restored in a day or a year, perhaps not in a period less than it has taken to destroy it. But we must not only be economical, we must be industrious, indefatigably industrious. An immense amount of capital has been wasted and squandered in visionary or unprofitable enterprises, public and private. It can only be reproduced by labor and saving.

The second remedy which I would suggest, and that without which all others must prove abortive or ineffectual, is a sound currency, of uniform value throughout the Union, and redeemable in specie upon the demand of the holder. I know of but one mode in which that object can be accomplished, and that has stood the test of time and practical experience. If any other can be devised than a bank of the United States, which should be

safe and certain, and free from the influence of government, and especially under the control of the executive department, I should for one gladly see it embraced. I am not exclusively wedded to a bank of the United States, nor do I desire to see one established against the will and without the consent of the people. But all my observation and reflection have served to strengthen and confirm my conviction, that such an institution, emanating from the authority of the general government, properly restricted and guarded, with such improvements as experience has pointed out, can alone supply a reliable currency.

Accordingly, at the extra session, a bill passed both Houses of Congress, which, in my opinion, contained an excellent charter, with one or two slight defects, which it was intended to cure by a supplemental bill, if the veto had not been exercised. That charter contained two new, and I think admirable features; one was to separate the operation of issuing a circulation from that of banking, confiding these faculties to different boards; and the other was to limit the dividends of the bank, bringing the excess beyond the prescribed amount, into the public treasury. In the preparation of the charter, every sacrifice was made that could be made to accommodate it, especially in regard to the president. But instead of meeting us in a mutual spirit of conciliation, he fired, as was aptly said by a Virginia editor, upon the flag of truce sent from the capitol.

Congress anxious to fulfill the expectations of the people, another bank bill was prepared, in conformity with the plan of a bank sketched by the acting president in his veto message, after a previous consultation between him and some distinguished members of Congress, and two leading members of his cabinet. The bill was shaped in precise conformity to his views, as communicated by those members of the cabinet, and as communicated to others, and was submitted to his inspection after it was so prepared; and he gave his assurances that he would approve such a bill. I was no party to the transaction, but I do not entertain a doubt of what I state. The bill passed both Houses of Congress without any alteration or amendment whatever, and the veto was nevertheless again employed.

It is painful for me to advert to a grave occurrence, marked by such dishonor and bad faith. Although the president, through his recognized organ, derides and denounces the whigs, and disowns being one; although he administers the executive branch of the government in contempt of their feelings and in violation of their principles; and although all whom he chooses to have denominated as ultra whigs, that is to say, the great body of the whig party, have come under this ban, and those of them in office are threatened with his expulsion, I wish not to say of him one word that is not due to truth and to the country. I will, however, say that, in my opinion, the whigs can not justly be held responsible for his administration of the executive department, for the measures he may recommend, or his failure to recommend others, nor especially for the manner in which he distributes the public patronage. They will do their duty, I hope, toward

the country, and render all good and proper support to government; but they ought not to be held accountable for his conduct. They elected him, it is true, but for another office, and he came into the present one by a lamentable visitation of Providence. There had been no such instance occurring under the government. If the whigs were bound to scrutinize his opinions, in reference to an office which no one ever anticipated he would fill, he was bound in honor and good faith to decline the Harrisburg nomination, if he could not conscientiously co-operate with the principles that brought him into office. Had the president who was elected lived, had that honest and good man, on whose face, in that picture, we now gaze, been spared, I feel perfectly confident that all the measures which the principles of the whigs authorized the country to expect, including a bank of the United States, would have been carried.

But it may be said that a sound currency, such as I have described, is unattainable during the administration of Mr. Tyler. It will be, if it can only be obtained through the instrumentality of a bank of the United States, unless he changes his opinion, as he has done in regard to the land bill.

Unfortunately, our chief magistrate possesses more powers, in some respects, than a King or Queen of England. The crown is never separated from the nation, but is obliged to conform to its will. If the ministry holds opinions adverse to the nation, and is thrown into the minority in the House of Commons, the crown is constrained to dismiss the ministry, and appoint one whose opinions coincide with the nation. This Queen Victoria has recently been obliged to do: and not merely to change her ministry, but to dismiss the official attendants upon her person. But here, if the president holds an opinion adverse to that of Congress and the nation upon important public measures, there is no remedy but upon the periodical return of the rights of the ballot box.

Another remedy, powerfully demanded by the necessities of the times, and requisite to mantaining the currency in a sound state, is a tariff which will lessen importations from abroad, and tend to increase supplies at home from domestic industry. I have so often expressed my views on this subject, and so recently in the Senate of the United States, that I do not think there is any occasion for my enlarging upon it at this time. I do not think that an exorbitant or very high tariff is necessary; but one that shall insure an adequate revenue and reasonable protection; and it so happens that the interests of the treasury and the wants of the people now perfectly coincide. Union is our highest, greatest interest. No one can look beyond its dissolution without horror and dismay. Harmony is essential to the preservation of the Union. It was the leading, although not the only motive in proposing the compromise act, to preserve that harmony. The power of protecting the interests of our own country, can never be abandoned or surrendered to foreign nations, without a culpable dereliction of duty. Of this truth, all parts of the nation are every day becoming more

and more sensible. In the mean time this indispensable power should be exercised with a discretion and moderation, and in a form least calculated to revive prejudices, or to check the progress of reforms now going on in public opinion.

In connection with a system of remedial measures, I shall only allude to, without stopping to dwell on, the distribution bill, that just and equitable settlement of a great national question, which sprung up during the revolutionary war, which has seriously agitated the country, and which it is deeply to be regretted had not been settled ten years ago, as then proposed. Independent of all other considerations, the fluctuation in the receipts from sales of public lands is so great and constant that it is a resource on which the general government ought not to rely for revenue. It is far better that the advice of a democratic land committee of the Senate, at the head of which was the experienced and distinguished Mr. King of Alabama, given some years ago, should be followed, that the federal treasury be replenished with duties on imports, without bringing into it any part of the land fund.

I have thus suggested measures of relief adapted to the present state of the country, and I have noticed some of the differences which unfortunately exist between the two leading parties into which our people are unhappily divided. In considering the question whether the counsels of the one or the other of these parties are wisest, and best calculated to advance the interest, the honor, and the prosperity of the nation, which every citizen ought to do, we should discard all passion and prejudice, and exercise, as far as possible, a perfect impartiality. And we should not confine our attention merely to the particular measures which those parties respectively espouse or oppose, but extend it to their general course and conduct, and to the spirit and purposes by which they are animated. We should anxiously inquire, whither shall we be led by following in the lead of one or the other of those parties—shall we be carried to the achievement of the glorious destiny, which patriots here, and the liberal portion of mankind everywhere, have fondly hoped awaits us? or shall we ingloriously terminate our career, by adding another melancholy example of the instability of human affairs, and the folly with which self-government is administered?

I do not arrogate to myself more impartiality, or greater freedom from party bias, than belongs to other men; but, unless I deceive myself, I think I have reached a time of life, and am now in a position of retirement, from which I can look back with calmness, and speak, I hope, with candor and justice. I do not intend to attempt a general contrast between the two parties, as to their course, doctrines, and spirit. That would be too extensive and laborious an undertaking for this occasion; but I propose to specify a few recent instances, in which I think our political opponents have exhibited a spirit and bearing disorganizing and dangerous to the permanency and stability of our institutions, and I invoke the serious and sober attention to them, of all who are here assembled.

The first I would notice, is the manner in which Territories have been lately admitted as States, into the Union. The early and regular practice of the government, was for Congress to pass previously a law authorizing a convention, regulating the appointment of members to it; specifying the qualification of voters, and so forth. In that way most the States were received. Of late, without any previous sanction or authority from Congress, several Territories have proceeded of themselves to call conventions, form constitutions, and demand admission into the Union; and they were admitted. I do not deny that their population and condition entitled them to admission; but I insist that it should have been done in the regular and established mode. In the case of Michigan, aliens were allowed to vote, as aliens have been allowed to become pre-emptioners in the public lands. And a majority in Congress sanctioned the proceeding. When foreigners are naturalized and incorporated as citizens in our community, they are entitled to all the privileges, within the limits of the Constitution, which belong to a native-born citizen; and, if necessary, they should be protected, at home and abroad—the thunder of our artillery should roar as loud and as effectually in their defense as if their birth were upon American soil. But I can not but think it wrong and hazardous, to allow aliens, who have just landed upon our shores, who have not yet renounced their allegiance to foreign potentates, nor sworn fidelity to our Constitution, with all the influences of monarchy and anarchy about them, to participate in our elections, and affect our legislation.

Second, the New Jersey election case, in which the great seal of the State, and the decision of the local authorities were put aside by the House of Representatives, and a majority thus secured to the democratic party.

Third, nullification, which is nothing more nor less than an assumption by one State to abrogate within its limits a law passed by the twenty-six States in Congress assembled.

Fourth, a late revolutionary attempt in Maryland to subvert the existing government, and set up a new one, without any authority of law.

Fifth, the refusal of a minority in the Legislature of Tennessee, to cooperate with the majority (their Constitution requiring the presence of two thirds of the members), to execute a positive injunction of the United States to appoint two United States senators. In principle, that refusal was equivalent to announcing the willingness of that minority to dissolve the Union. For if thirteen or fourteen of the twenty-six States were to refuse altogether to elect senators, a dissolution of the Union would be the consequence. That majority, for weeks together, and time after time, deliberately refused to enter upon the election. And if the Union is not in fact dissolved, it is not because the principle involved would not yield to a dissolution, but because twelve or thirteen other States have not like themselves refused to perform a high constitutional duty. And why did they refuse? Simply because they apprehended the election to the Senate

of political opponents. The seats of the two Tennessee senators in the United States Senate, are now vacant, and Tennessee has no voice in that branch of Congress, in the general legislation. One of the highest compliments which I ever received, was to have been appointed, at a popular meeting in Tennessee, one of her senators, in conjunction with a distinguished senator from South Carolina, with all the authority that such an appointment could bestow. I repeat here an expression of my acknowledgments for the honor, which I most ambitiously resigned, when I gave up my dictatorship, and my seat as a Kentucky senator. [A general laugh.]

Sixth. Then there is repudiation, that foul stain upon the American character, cast chiefly by the democrats of Mississippi, and which it will require years to efface from our bright escutcheon.

Seventh, the support given to executive usurpations, and the expunging the records of the Senate of the United States.

Eighth, the recent refusal of State Legislatures to pass laws to carry into effect the act of distribution, an act of Congress passed according to all the forms of the Constitution, after ample discussion and deliberate consideration, and after the lapse of ten years from the period it was first proposed. It is the duty of all to submit to the laws regularly passed. They may attempt to get them repealed; they have a right to test their validity before the judiciary; but while the laws remain in force unrepealed, and without any decision against their constitutional validity, submission to them is not merely a constitutional and legal, but a moral duty. In this case it is true that those who refuse to abide by them only bite their own noses. But it is the principle of the refusal to which I call your attention. If a minority may refuse compliance with one law, what is to prevent minorities from disregarding all law? Is this any thing but a modification of nullification? What right have the servants of the people (the legislative bodies), to withhold from their masters their assigned quotas of a great public fund?

Ninth. The last, though not least, instance of the manifestation of a spirit of disorganization which I shall notice, is the recent convulsion in Rhode Island. That little, but gallant and patriotic State had a charter derived from a British king, in operation between one and two hundred years. There had been ingrafted upon it laws and usages, from time to time, and altogether a practical Constitution sprung up, which carried the State as one of the glorious thirteen, through the Revolution, and brought her safely into the Union. Under it, her Greens, and Perrys, and other distinguished men were born and rose to eminence. The Legislature had called a convention to remedy whatever defects it had, and to adapt it to the progressive improvement of the age. In that work of reform the Dorr party might have co-operated; but not choosing so to co-operate, and in wanton defiance of all established authority, they undertook subsequently to call another convention. The result was two constitutions,

not essentially differing on the principal point of controversy, the right of suffrage.

Upon submitting to the people that which was formed by the regular convention, a small majority voted against it, produced by a union in casting votes, between the Dorr party and some of the friends of the old charter, who were opposed to any change. The other constitution being also submitted to the people, an apparent majority voted for it, made up of every description of votes, legal and illegal, by proxy and otherwise, taken in the most irregular and unauthorized manner.

The Dorr party proceeded to put their constitution in operation, by electing him as the governor of the State, members to the mock Legislature, and other officers. But they did not stop here; they proceeded to collect, to drill, and to marshal a military force, and pointed their cannon against the arsenal of the State.

The president was called upon to interpose the power of the Union to preserve the peace of the State, in conformity with an express provision of the federal Constitution. And I have as much pleasure in expressing my opinion that he faithfully performed his duty, in responding to that call, as it gave me pain to be obliged to animadvert on other parts of his conduct.

The leading presses of the democratic party at Washington, Albany, New York, Richmond, and elsewhere, came out in support of the Dorr party, encouraging them in their work of rebellion and treason. And when matters had got to a crisis, and the two parties were preparing for a civil war, and every hour it was expected to blaze out, a great Tammany meeting was held in the city of New York, headed by the leading men of the party, the Cambrelengs, the Vanderpools, the Allens, etc., with a perfect knowledge that the military power of the Union was to be employed, if necessary, to suppress the insurrection, and, notwithstanding, they passed resolutions tending to awe the president, and countenance and cheer the treason.

Fortunately, numbers of the Dorr party abandoned their chief; he fled, and Rhode Island, unaided by any actual force of the federal authority, proved herself able alone to maintain law, order, and government, within her borders.

I do not attribute to my fellow-citizens here assembled, from whom I differ in opinion, any disposition to countenance the revolutionary proceedings in Rhode Island. I do not believe that they approve it. I do not believe that their party generally could approve it, nor some of the other examples of a spirit of disorganization which I have enumerated; but the misfortune is, in time of high party excitement, that the leaders commit themselves, and finally commit the body of their party, who perceive that unless they stand by and sustain their leaders, a division, and perhaps destruction of the party, would be the consequence. Of all the springs of human action, party ties are perhaps the most powerful. Interest has been

supposed to be more so; but party ties are more influential, unless they are regarded as a modification of imaginary interest. Under their sway, we have seen, not only individuals, but whole communities abandon their long-cherished interests and principles, and turn round and oppose them with violence.

Did not the rebellion in Rhode Island find for its support a precedent established by the majority in Congress, in the irregular admission of Territories, as States, into the Union, to which I have heretofore alluded? Is there not reason to fear that the example which Congress had previously presented, encouraged the Rhode Island rebellion?

It has been attempted to defend that rebellion, upon the doctrines of the American Declaration of Independence; but no countenance to it can be fairly derived from them. That declaration asserts, it is true, that whenever a government becomes destructive of the ends of life, liberty, and the pursuit of happiness, for the security of which it was instituted, it is the right of the people to alter or abolish it, and institute a new government; and so undoubtedly it is. But this is a right only to be exercised in grave and extreme cases. "Prudence indeed will dictate," says that venerated instrument, "that governments long established should not be changed for light and transient causes." "But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, their duty, to throw off such government."

Will it be pretended that the actual government of Rhode Island is destructive of life, liberty, or the pursuit of happiness? That it has perpetrated a long train of abuses and usurpations, pursuing the same invariable object, to reduce the people under absolute despotism? Or that any other cause of complaint existed, but such as might be peacefully remedied, without violence and without blood? Such as, in point of fact, the legitimate government had regularly summoned a convention to redress, but for the results of whose deliberations the restless spirit of disorder and rebellion had not patience to wait? Why, fellow-citizens, little Rhody (God bless and preserve her) is one of the most prosperous, enterprising, and enlightened States in this whole Union. Nowhere are life, liberty, and property more perfectly secure.

How is this right of the people to abolish an existing government, and to set up a new one, to be practically exercised? Our revolutionary ancestors did not tell us by words, but they proclaimed it by gallant and noble deeds. Who are the people that are to tear up the whole fabric of human society, whenever and as often as caprice or passion may prompt them? When all the arrangements and ordinances of existing organized society are prostrated and subverted, as must be supposed in such a lawless and irregular movement as that in Rhode Island, the established privileges and distinctions between the sexes, between the colors, between the ages, between natives and foreigners, between the sane and the insane, and between the

innocent and the guilty convict, all the offspring of positive institutions, are cast down and abolished, and society is thrown into one heterogeneous and unregulated mass. And is it contended that the major part of this Babel congregation is invested with the right to build up, at its pleasure, a new government? That as often, and whenever society can be drummed up and thrown into such a shapeless mass, the major part of it may establish another, and another new government, in endless succession? Why, this would overturn all social organization, make revolutions—the extreme and last resort of an oppressed people—the commonest occurrences of human life, and the standing-order of the day. How such a principle would operate, in a certain section of this Union, with a peculiar population, you will readily conceive. No community could endure such an intolerable state of things anywhere, and all would, sooner or later, take refuge from such ceaseless agitation, in the calm repose of absolute despotism.

I know of no mode by which an existing government can be overthrown and put aside, and a new one erected in its place, but by the consent or authority of that government, express or implied, or by forcible resistance, that is, revolution.

Fellow-citizens, I have enumerated these examples of a dangerous spirit of disorganization and disregard of law, with no purpose of giving offense, or exciting bitter and unkind feelings, here or elsewhere, but to illustrate the principles, character, and tendency of the two great parties into which this country is divided. In all of these examples, the democratic party, as it calls itself (a denomination to which I respectfully think it has not the least just pretension), or large portions of that party, extending to whole States, united with apparent cordiality. To all of them the whig party was constantly and firmly opposed. And now let me ask you, in all candor and sincerity, to say truly and impartially to which of these two parties can the interests, the happiness, and the destinies of this great people be most safely confided? I appeal especially, and with perfect confidence, to the candor of the real, the ancient, and long-tried democracy—that old republican party with whom I stood, side by side, during some of the darkest days of the republic, in seasons of both war and peace.

Fellow-citizens of all parties! The present situation of our country is one of unexampled distress and difficulty; but there is no occasion for any despondency. A kind and bountiful Providence has never deserted us; punished us he perhaps has, for our neglect of his blessings and our misdeeds. We have a varied and fertile soil, a genial climate and free institutions. Our whole land is covered, in profusion, with the means of subsistence and the comforts of life. Our gallant ship, it is unfortunately true, lies helpless, tossed on a tempestuous sea, amid the conflicting billows of contending parties, without a rudder and without a faithful pilot. But that ship is our country, embodying all our past glory, all our future hopes. Its crew is our whole people, by whatever political denomination they are

known. If she goes down, we all go down together. Let us remember the dying words of the gallant and lamented Lawrence. Don't give up the ship. The glorious banner of our country, with its unstained stars and stripes, still proudly floats at its mast-head. With stout hearts and strong arms we can surmount all our difficulties. Let us all, all, rally round that banner, and finally resolve to perpetuate our liberties and regain our lost prosperity.

Whigs! Arouse from the ignoble supineness which encompasses you; awake from the lethargy in which you lie bound; cast from you that unworthy apathy which seems to make you indifferent to the fate of your country. Arouse! awake! shake off the dew-drops that glitter on your garments, and once more march to battle and to victory. You have been disappointed, deceived, betrayed; shamefully deceived and betrayed. But will you therefore also prove false and faithless to your country, or obey the impulses of a just and patriotic indignation? As for Captain Tyler, he is a mere snap, a flash in the pan; pick your whig flints and try your rifles again.

[The conclusion of the speech was followed with general and tremendous cheering; and the largest, and one of the most respectable multitudes ever assembled in Kentucky, dispersed without a solitary instance of disorder or indecorum occurring.]

REPLY TO MR. MENDENHALL.

RICHMOND, INDIANA, OCTOBER 1, 1842.

[WHATEVER may be the merits of Mr. Mendenhall, he has certainly found a place in history. While Mr. Clay was on a visit to Indiana, in the autumn of 1842, the occasion was embraced by some of his political opponents to encourage and put forward the above-named individual, a member of the Society of Friends, in violation of the rights of hospitality, publicly to present a petition to Mr. Clay to liberate his slaves; and the following remarks are Mr. Clay's answer.]

I HOPE that Mr. Mendenhall may be treated with the greatest forbearance and respect. I assure my fellow-citizens here collected, that the presentation of the petition has not occasioned the slightest pain, nor excited one solitary disagreeable emotion. If it were to be presented to me, I prefer that it should be done in the face of this vast assemblage. I think I can give it such an answer as becomes me and the subject of which it treats. At all events, I entreat and beseech my fellow-citizens, for their sake, for my country's sake, for my sake, to offer no disrespect, no indignity, no violence, in word or deed, to Mr. Mendenhall.

I will now, sir, make to you and to this petition such a response as becomes me. Allow me to say that I think you have not conformed to the independent character of an American citizen in presenting a *petition* to *me*. I am, like yourself, but a private citizen. A petition, as the term implies, generally proceeds from an inferior in power or station to a superior; but between us there is entire equality. And what are the circumstances under which you have chosen to offer it? I am a total stranger, passing through your State, on my way to its capital, in consequence of an invitation with which I have been honored to visit it, to exchange friendly salutations with such of my fellow-citizens of Indiana as think proper to meet me, and to accept of their hospitality. Anxious as I am to see them, and to view parts of this State which I had never seen, I came here with hesitation and reluctance, because I apprehended that the motives of my journey might be misconceived and perverted. But when the fulfillment of an old promise to visit Indianapolis was insisted upon, I

yielded to the solicitations of friends, and have presented myself among you.

Such is the occasion which has been deliberately selected for tendering this petition to me. I am advanced in years, and neither myself nor the place of my residence is altogether unknown to the world. You might at any time within these last twenty-five or thirty years, have presented your petition to me at Ashland. If you had gone there for that purpose, you should have been received and treated with perfect respect and liberal hospitality.

Now, Mr. Mendenhall, let us reverse conditions, and suppose that you had been invited to Kentucky to partake of its hospitality; and that, previous to your arrival, I had employed such means as I understand have been used to get up this petition, to obtain the signatures of citizens of that State to a petition to present to you to relinquish your farm or other property, what would you have thought of such a proceeding? Would you have deemed it courteous and according to the rites of hospitality?

I know well, that you and those who think with you, controvert the legitimacy of slavery, and deny the right of property in slaves. But the law of my State and other States has otherwise ordained. The law may be wrong in your opinion, and ought to be repealed; but then you and your associates are not the law-makers for us, and unless you can show some authority to nullify our laws, we must continue to respect them. Until the law is repealed, we must be excused for asserting the rights—aye, the property in slaves—which it sanctions, authorizes, and vindicates.

And who are the petitioners whose organ you assume to be? I have no doubt that many of them are worthy, amiable, and humane persons, who, by erroneous representations, have been induced inconsiderately to affix their signatures to this petition, and that they will deeply regret it. Others, and not a few, I am told, are free blacks, men, women, and children, who have been artfully deceived and imposed upon. A very large portion, I have been credibly informed, are the political opponents of the party to which I belong—democrats, as they most undeservedly call themselves, who have eagerly seized this opportunity to wound, as they imagine, my feelings, and to aid the cause to which they are attached. In other quarters of the Union, democrats claim to be the exclusive champions of southern interests, the only safe defenders of the rights in slave property, and unjustly accuse us whigs with abolition designs wholly incompatible with its security. What ought those distant democrats to think of the course of their friends here, who have united in this petition?

And what is the foundation of this appeal to me in Indiana, to liberate the slaves under my care, in Kentucky? It is a general declaration in the act announcing to the world the independence of the thirteen American colonies, that all men are created equal. Now, as an abstract principle,

there is no doubt of the truth of that declaration; and it is desirable, in the original construction of society, and in organized societies, to keep it in view as a great fundamental principle. But, then, I apprehend that in no society that ever did exist, or ever shall be formed, was or can the equality asserted among the members of the human race, be practically enforced and carried out. There are portions of it, large portions, women, minors, insane, culprits, transient sojourners, that will always probably remain subject to the government of another portion of the community.

That declaration, whatever may be the extent of its import, was made by the delegations of the thirteen States. In most of them slavery existed, and had long existed, and was established by law. It was introduced and forced upon the colonies by the paramount law of England. Do you believe that, in making that declaration, the States that concurred in it intended that it should be tortured into a virtual emancipation of all the slaves within their respective limits? Would Virginia and the other southern States have ever united in a declaration which was to be interpreted into an abolition of slavery among them? Did any one of the thirteen States entertain such a design or expectation? To impute such a secret and unavowed purpose would be to charge a political fraud upon the noblest band of patriots that ever assembled in council; a fraud upon the confederacy of the Revolution; a fraud upon the union of those States, whose Constitution not only recognized the lawfulness of slavery, but permitted the importation of slaves from Africa, until the year 1808. And I am bold to say, that, if the doctrines of ultra political abolitionists had been seriously promulgated at the epoch of our Revolution, our glorious independence would never have been achieved—never, never.

I know the predominant sentiment in the free States is adverse to slavery; but, happy in their own exemption from whatever evils may attend it, the great mass of our fellow-citizens there do not seek to violate the Constitution, or to disturb the harmony of these States. I desire no concealment of my opinions in regard to the institution of slavery. I look upon it as a great evil, and deeply lament that we have derived it from the parental government, and from our ancestors. I wish every slave in the United States was in the country of his ancestors. But here they are, and the question is, how they can be best dealt with? If a state of nature existed, and we were about to lay the foundations of society, no man would be more strongly opposed than I should be, to incorporate the institution of slavery among its elements. But there is an incalculable difference between the original formation of society and a long existing organized society, with its ancient laws, institutions, and establishments. Now, great as I acknowledge, in my opinion, the evils of slavery are, they are nothing, absolutely nothing, in comparison with the far greater evils which would inevitably flow from a sudden, general, and indiscriminate emancipation. In some of the States the number of slaves approximates toward an equality

with that of the whites; in one or two they surpass them. What would be the condition of the two races in those States, upon the supposition of an immediate emancipation? Does any man suppose that they would become blended into one homogeneous mass? Does any man recommend amalgamation—that revolting admixture, alike offensive to God and man; for those whom he, by their physical properties, has made unlike and put asunder, we may, without presumptuousness, suppose were never intended to be joined together in one of the holiest rites. And let me tell you, sir, if you do not already know it, that such are the feelings—prejudice, if you please (and what man, claiming to be a statesman, will overlook or disregard the deep-seated and unconquerable prejudices of the people?)—in the slave States, that no human law could enforce a union between the two races.

What then would certainly happen? A struggle for political ascendancy; the blacks seeking to acquire, and the whites to maintain, possession of the government. Upon the supposition of a general immediate emancipation in those States where the blacks outnumber the whites, they would have nothing to do but to insist upon another part of the same declaration of independence, as Dorr and his deluded democratic followers recently did in Rhode Island; according to which, an undefined majority have the right, at their pleasure, to subvert an existing government, and institute a new one in its place, and then the whites would be brought in complete subjection to the blacks! A contest would inevitably ensue between the two races—civil war, carnage, pillage, conflagration, devastation, and the ultimate extermination or expulsion of the blacks. Nothing is more certain. And are not these evils far greater than the mild and continually improving state of slavery which exists in this country? I say continually improving; for if this gratifying progress in the amelioration of the condition of the slaves has been checked in some of the States, the responsibility must attach to the unfortunate agitation of the subject of abolition. In consequence of it, increased rigor in the police, and further restraints have been imposed; and I do believe that gradual emancipation (the only method of liberation that has ever been thought safe or wise by any body in any of the slave States), has been postponed half a century.

Without any knowledge of the relation in which I stand to my slaves, or their individual condition, you, Mr. Mendenhall, and your associates, who have been active in getting up this petition, call upon me forthwith to liberate the whole of them. Now let me tell you, that some half a dozen of them, from age, decrepitude, or infirmity, are wholly unable to gain a livelihood for themselves, and are a heavy charge upon me. Do you think that I should conform to the dictates of humanity by ridding myself of that charge, and sending them forth into the world with the boon of liberty, to end a wretched existence in starvation? Another class is composed of helpless infants, with or without improvident mothers. Do you believe as a Christian, that I should perform my duty toward them by abandoning

them to their fate? Then there is another class who would not accept their freedom if I would give it to them. I have for many years owned a slave that I wished would leave me, but he will not. What shall I do with that class?

What my treatment of my slaves is you may learn from Charles, who accompanies me on this journey, and who has traveled with me over the greater part of the United States, and in both the Canadas, and has had a thousand opportunities, if he had chosen to embrace them, to leave me. Excuse me, Mr. Mendenhall, for saying that my slaves are as well fed and clad, look as sleek and hearty, and are quite as civil and respectful in their demeanor, and as little disposed to wound the feelings of any one, as you are.

Let me recommend you, sir, to imitate the benevolent example of the society of Friends, in the midst of which you reside. Meek, gentle, imbued with the genuine spirit of our benign religion, while in principle they are firmly opposed to slavery, they do not seek to accomplish its extinction by foul epithets, coarse and vulgar abuse, and gross calumny. Their ways do not lead through blood, revolution, and disunion. Their broad and comprehensive philanthropy embraces, as they believe, the good and the happiness of the white as well as the black race; giving to one their commiseration, to the other their kindest sympathy. Their instruments are not those of detraction and war, but of peace, persuasion, and earnest appeals to the charities of the human heart. Unambitious, they have no political objects or purposes to subserve. My intercourse with them throughout life has been considerable, interesting, and agreeable: and I venture to say, nothing could have induced them, as a society, whatever a few individuals might have been tempted to do, to seize the occasion of my casual passage through this State to offer me a personal indignity.

I respect the motives of rational abolitionists, who are actuated by a sentiment of devotion to human liberty, although I deplore and deprecate the consequences of the agitation of the question. I have even many friends among them. But they are not monomaniacs, who, surrendering themselves to a single idea, look altogether to the black side of human life. They do not believe that the sum total of all our efforts and all our solicitude should be abolition. They believe there are duties to perform toward the white man as well as the black. They want good government, good administration, and the general prosperity of their country.

I shall, Mr. Mendenhall, take your petition into respectful and deliberate consideration; but before I come to a final decision, I should like to know what you and your associates are willing to do for the slaves in my possession, if I should think proper to liberate them. I own about fifty, who are probably worth about fifteen thousand dollars. To turn them loose upon society without any means of subsistence or support would be an act of

cruelty. Are you willing to raise and secure the payment of fifteen thousand dollars for their benefit, if I should be induced to free them? The security of the payment of that sum would materially lessen the obstacle in the way of their emancipation.

And now, Mr. Mendenhall, I must take respectful leave of you. We separate, as we have met, with no unkind feelings, no excited anger or dissatisfaction on my part, whatever may have been your motives, and these I refer to our common Judge above, to whom we are both responsible. Go home, and mind your own business, and leave other people to take care of theirs. Limit your benevolent exertions to your own neighborhood. Within that circle you will find ample scope for the exercise of all your charities. Dry up the tears of the afflicted widows around you, console and comfort the helpless orphan, clothe the naked, and feed and help the poor, black and white, who need succor; and you will be a better and wiser man than you have this day shown yourself.

MR. CLAY'S SPEECHES

IN THE

THIRTY-FIRST CONGRESS.

[Mr. Clay made but few speeches while in private life, from 1842 to 1849, a notice of which will be found in the first three chapters of the third volume of this work,* with liberal extracts, and some of the entire speeches, the most important of which is that delivered at Lexington, November 13, 1847, on the Mexican War. For all these occasional and more or less important efforts of Mr. Clay, running through a period of seven years, the reader is referred to the volume and chapters above mentioned.

We come now to the final period of Mr. Clay's parliamentary career, in the Thirty-first Congress, beginning at the opening of the first session, in December, 1849, and ending the 4th of March, 1851. Although he appeared in the Senate at the opening of the Thirty-second Congress, he only went up to the Senate Chamber once, and then returned to his room, there to suffer, with a tedious wasting of his powers, which terminated in death, June 29, 1852.

The first speech in the Thirty-first Congress, worthy of note, is a little gem given on the occasion of a motion to admit Father Mathew, the great Apostle of Temperance, within the bar of the Senate, to which Senator Clemens, of Alabama, objected, on account of some sentiments expressed by Father Mathew, while in Ireland, against slavery in the United States.]

* Last Seven Years of the Life of Henry Clay.

ON FATHER MATHEW.

IN SENATE, DECEMBER 20, 1849.

Mr. President, I confess that I have heard with great regret this opposition made to the adoption of that resolution. It is a very small affair; a compliment, which can not be very highly appreciated, in some of its aspects, to the reverend person who is named in that resolution. But, sir, in the little affairs of human life, whether social or national, I have found that courtesies, kindness, and small attentions are often received with more grateful feelings than those of a more substantial character. We often appreciate more the picayunes than we do the double eagles, in the currency of social and human life.

Perhaps, sir, it was hardly necessary to have presented this resolution; but it has been offered. I understand that, according to the usage of the Senate, any member may introduce into the lobby any distinguished person whom he thinks proper to introduce. I had understood that to be the rule: perhaps I am mistaken; but, be that as it may, I think, sir, that that resolution is an homage to humanity, to philanthropy, to virtue; that it is a merited tribute to a man who has achieved a great social revolution —a revolution in which there has been no bloodshed, no desolation inflicted, no tears of widows and orphans extracted; and one of the greatest which has been achieved by any of the benefactors of mankind. Sir, it is a compliment due from the Senate, small as it may be; and I put it in all seriousness, in a spirit of the most perfect kindness, to the honorable senator from Alabama, whether this pushing the subject of slavery in its collateral and remote branches upon all possible occasions that may arise during our deliberations in this body, is not impolitic, unwise, and injurious to the stability of the very institution which I have no doubt the honorable gentleman would uphold.

Sir, I have seen something in the papers upon this subject of Father Mathew's having expressed some opinions, years ago, in Ireland, upon the subject of slavery. I have seen, on the other hand, when he came to this country, and got a nearer and more accurate understanding of the state of things, he refused to lend himself to the cause of northern abolitionists; and in consequence of that refusal, incurred their severest animadversions. But, whether that had occurred or not, in reference to other causes and other motives, I submit it to the candor of the honorable senator whether

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it is prudent, right, just, and proper to refuse a compliment which, I venture to say, the hearts of all mankind accord to this distinguished foreigner; a compliment no less due to him for his great services in the cause of humanity, than it is due to him as an Irish patriot.

[For Mr. Clay's speech of January 24, 1850, for the purchase of the original copy of Washington's Farewell Address, see vol. iii. of this work, p. 108.

January 29, 1850, Mr. Clay introduced into the Senate his famed Resolutions of Compromise, eight in number, and explained them by a speech of considerable length, which—both resolutions and speech—will be found in the third volume of this work.*

On the 5th and 6th of February, 1850, Mr. Clay advocated and vindicated the above-named resolutions, in a speech of great length and power, the whole of which will also be found in vol. iii., page 302.]

* Last Seven Years, chap. vi., page 114.

ON THE ADMISSION OF CALIFORNIA.

IN SENATE, FEBRUARY 14, 1850.

[THE Mexican war was alledged and believed to have been made for conquest and the extension of slavery; and the slave States were disappointed when California applied to be admitted as a free State. Her admission, therefore, excluding slavery, was opposed by the South, and strenuous efforts were made to divide California, and make a slave State out of its southern part. The great question of this long-protracted debate was, whether California should come into the Union by herself, or be put in a bill embracing other measures of general compromise. Mr. Clay was at first in favor of admitting her at once and alone; but when he discovered that it was doubtful whether such a bill would pass both Houses of Congress, he was in favor of putting the admission of California in a bill with other measures, and so reported it from the Committee of Thirteen. California, however, was finally admitted by a separate bill, after the first bill reported by the Committee of Thirteen, comprehending other measures, had failed. The following remarks of Mr. Clay were incidental, occasioned by the current of debate.]

The VICE-PRESIDENT. The question is on referring the message of the president to the Committee on Territories, that being a standing committee.

Mr. CLAY. Well, if the proposition be to refer the president's message to the Committee on the Territories, I shall with great pleasure vote for the proposition. But I do not think it would be right to embrace in a general motion the question of the admission of California and all the other subjects which are treated of by the resolutions upon the table—the subject, for example, of the establishment of territorial governments, the subject of the establishment of a boundary line for Texas, and the proposition to compensate Texas for the surrender of territory. I say, sir, I do not think it would be right to confound or to combine all these subjects, and to throw them before one committee to be acted upon together. I think the subject of the admission of California ought to be kept separate and distinct, although, for one, I should have no objection, that question being

separated from the residue of the subject, that the resolutions and the rest of the propositions that are before the Senate, so far as regards those which have a kindred or common nature, should be referred at the proper time to a committee, to be acted upon together; but I think the time has not yet arrived for such a reference.

Sir, there are three or four members of Congress who have come here all the way from the Pacific with a Constitution purporting to be the Constitution of a State which is seeking to be admitted as a member of this Union. Now, sir, is it right to subject them to all the delay, the uncertainty, the procrastination which must inevitably result from the combination of all these subjects, and a reference of them to one committee, and to wait until that committee shall have adjudged the whole? I think not. I am not now arguing whether California ought or ought not to be admitted; whether she ought or ought not to be admitted with the boundary which she proposes, or with any other boundary; but I am contending that—considering the circumstances under which her representation presents itself to Congress, under the circumstances that when they left their homes, perhaps, nothing on earth was further from their expectation than that there would be the slightest impediment or obstacle to their admission—and in consideration of the condition in which these gentlemen are placed who are here in attendance in the lobbies of these halls, it seems to me that we should decide, and decide as promptly as we can consistently with just and proper deliberation. I think the question of the admission of California is one which stands by itself, and that it should be kept disconnected with the other resolutions.

Entertaining these views of the matter, I shall vote for the proposition of the gentleman from Illinois for the reference to the Committee on Territories, or to any other committee to which its reference may be appropriate. * * *

I suppose, sir, there is nothing very novel in the idea that I am in favor of the admission of California as a State into this Union. And allow me to say to the honorable senator from Mississippi, that, if I were disposed to retaliate at all upon him in reference to the supposed change of opinion, it would be quite easy for me to tell him, that, according to his own confession to-day, he was in favor of the admission of California a year ago, when she had no Constitution; but he is opposed to her admission now, when she has come here with a Constitution in her hands, precisely in the manner in which Florida, Arkansas, I believe, and Michigan did.

Mr. FOOTE. If the honorable senator understood me as saying that I am opposed to the admission of California, he is mistaken. On the contrary, I am in favor of the admission of all that part of California lying above the line of 36° 30′ as a State. But I want all the questions settled together. I said that I was in favor of her admission as a State before certain influences had operated there which have thrown her into her present unfortunate position.

Mr. Clay. With regard to this alledged influence, I shall take up no time of the Senate during the discussion of this subject. I intend to divest myself as much as I possibly can of all party feeling.

Mr. Turney. I understand the honorable senator from Kentucky to say that California has presented herself now precisely as Florida did. I would inquire whether Florida had not a territorial government? and whether there was not a law of Congress authorizing the people of Florida to form a Constitution, in order to their admission into the Union as a State?

Mr. Clay. I think not; there was no law whatever. She had a territorial government, and so had California a local government—not given to her by the government of the United States, but depending upon the laws of Mexico, prior to the cession of that territory to this country. But, in the case of Florida, and of Michigan, and I think of Arkansas—I believe in reference to two, if not all three of these States—they came into the Union without any previous act of Congress authorizing the call of a convention for the formation of a Constitution, and the decision of the Territory whether it should come in as a member of the Union or not. However, it is not a matter of much importance. I do not know that I should have risen at all had not the worthy senator from Mississippi made a sort of omnibus speech, in which he introduced all sorts of things and every kind of passenger, and myself among the number. [Laughter.] And I have risen rather to vindicate myself from the charge of inconsistency, which he has attributed to me, than for any other purpose; and if I do not do it to his satisfaction, I shall be much more surprised than he was at my advocacy of the admission of California.

But first, I declare to you, Mr. President, that I did not even know the names of the members of that committee, except that of the chairman. I do not know the opinions of any one member of that committee. I have, indeed, heard it intimated that the chairman of that committee holds an opinion somewhat different from my own. But this is not a matter into which I have inquired, or to which I attach any importance.

But, sir, I am charged with inconsistency, and inconsistency so great, that the senator from Mississippi has not been able to find language strong enough to express the astonishment which he feels. Now, sir, the worthy senator will allow me to say that I really can not govern his emotions. He is a gentleman of fine imagination and of great fancy; and if he will permit himself to be operated upon by certain emotions which produce fancies which he can find no language to express, I can not help it; it must be the fault of his own peculiar constitution. I said, sir, when I had the honor of addressing the Senate on a former occasion that I wanted a settlement of all the questions connected with the unfortunate institution which has brought upon us the dangers which now threaten this Union. I want them all settled. And, sir, there is not a syllable which the senator has read of the speech made by me on that occasion, nor in

any speech that I ever made, which declares that all these subjects should be incorporated into one bill, and that upon the decision of that bill should rest the fate of all the questions connected with the institution of slavery. No, sir. Now, look at it for a moment— * * *

Mr. President, it is really surprising to me, though I will not express astonishment about it, how the honorable senator (Mr. Foote) could thus have misconceived me. I repeat it now, as I have often reiterated before, that I think Congress ought to settle all the matters which appertain to this question, every one of them which has threatened this country with danger. It is one thing, however, to settle them all, and another to fix upon the mode of doing it. I was going to show the honorable senator from Mississippi how utterly impossible it is to settle them all in the manner which he proposes.

My first proposition, in the series of eight resolutions which I offered, relates to California, and declares that she ought to be admitted; the second relates to the territorial governments; the next to Texas and the payment of a certain sum of money to her; the fifth relates to the District of Columbia and the abolition of slavery in the District. The sixth or seventh (for I have not got them now before me) relates to the recovery of fugitive slaves. Why, sir, before I introduced my resolutions we had a bill before us on that very subject, which had been discussed in part, and the progress of the discussion perhaps interrupted by these resolutions. Now, sir, does the honorable senator understand me as introducing the proposition that the question of the admission of California, and the question of territorial governments, the question of the line of Texas, and the proposition to her for the payment of a sum of money in consideration of the surrender of her claim, whatever it may be, to the territory; and, besides that, the abolition of the slave-trade in the District of Columbia, and moreover a law for the recovery of fugitive slaves, and adding further sanctions and penalties to the existing laws on that subject, shall all be combined in one single bill? It is impossible that any body can conceive that I intended to embrace all this variety of subjects in one bill, and propose the passage of them all at once.

["No South, no North, no East, no West." The following is part of a debate between Mr. Clay and Mr. Foote of Mississippi, on the attempt of the latter to hold Mr. Clay as a southern man, which was so much bruited at the time, and which makes a point in Mr. Clay's history as an American patriot.]

Mr. Foote. Let me again propound to the honorable senator a question which I have heretofore propounded, and which he has not yet answered. How is it that he, as a senator from the State of Kentucky, within whose limits the system of domestic slavery exists, can reconcile it to his own sense of justice to the vital interests of his constituents, at such a moment as this, in view of all the dangers which menace the southern section of the confederacy, to increase the number of adversary votes

against us upon all the pending questions, without first receiving some compensation therefor?

Mr. Clay. It is totally unnecessary for the gentleman to remind me of my coming from a slaveholding State. I know whence I come, and I know my duty, and I am ready to submit to any responsibility which belongs to me as a senator from a slaveholding State.

Sir, I have heard something said on this and a former occasion about allegiance to the South. I know no South, no North, no East, no West to which I owe any allegiance. I owe allegiance to two sovereignties, and only two: one is to the sovereignty of this Union, and the other is to the sovereignty of the State of Kentucky. My allegiance is to this Union and to my State; but if gentlemen suppose they can exact from me an acknowledgment of allegiance to any ideal or future contemplated confederacy of the South, I here declare that I owe no allegiance to it; nor will I, for one, come under any such allegiance if I can avoid it. I know what my duties are, and gentlemen may cease to remind me of the fact that I come from a slaveholding State.

Sir, if I choose to avail myself of the opinions of my own State, I can show a resolution from the State Legislature, received last night, reported after due consideration by a committee. This resolution declares its cordial sanction to the whole of the series of resolutions which I have offered. And I must say that the preparation of that resolution was unprompted by me; for I have neither written to nor have I received a single letter from any member of the Legislature of Kentucky during this session on public affairs. I beg pardon for this digression. These are the sentiments I entertain, and I am neither to be terrified nor frightened by any language. I hope gentlemen will not transcend the limits of legitimate parliamentary debate in using any language toward me; because I fear I could not even trust myself if they were to do it. I shall use no such language toward them, and I hope on this floor for a reciprocity of parliamentary dignity and propriety. I ask it, because I do not know how far I could trust myself if language of a personal character were applied to me, I care not by whom.

But, sir, I have been showing, and I rose chiefly for the purpose of showing, that there is no inconsistency between any thing that I have said heretofore, and any thing I say now. What I have said heretofore, and what I repeat now, is, that all these questions ought to be settled. Now, I admit the thought has crossed my mind respecting the course which I think this business ought to take, and I will state to you frankly what have been my impressions. My desire was that the Senate should express its sense upon each of the resolutions in succession, beginning with the first and ending with the eighth. If they should be affirmatively adopted, my purpose was to propose the reference of them to appropriate committees. There are some of the subjects which may be perhaps advantageously combined. I hope they can be combined in one bill. For

example, the establishment of suitable governments for the Territories, the question of the limits of Texas, and the proposition made to pay her a certain sum of money for considerations which I will not repeat. These, possibly, might be all with great propriety combined in one bill, and presented as a whole. But, beyond that, I never supposed it would be attempted, or that we could with propriety go; though it is possible, to be sure, as the senator from Mississippi says, to combine all these subjects in one bill of fifty or a hundred sections or pages. But it is not the usual course of legislation, nor do I think he will find it as practicable as he imagines. Besides, there are some of the resolutions which are negative in their character, requiring no legislation—such as the last one, for example. My idea was, if the Senate should think proper finally to decide affirmatively on these resolutions, that we should then refer them to appropriate committees, either one resolution by itself to an appropriate committee, or combining two or three together, according to the affinity of the subjects they embrace, and let the committee act on these two or three subjects. But I never did contemplate embracing in the entire scheme of accommodation and harmony which I proposed all these distracting questions, and bringing them all into one measure.

Sir, I did suppose that, if the Senate decided affirmatively on each of these resolutions, though one might be matured in the shape of a bill a little earlier than others, still, having declared our approbation of them all, we could so far trust each other as to believe that voting for any one measure to-day will not lead to the apprehension of any want of good faith in voting for another measure to come up to-morrow. I supposed they would all be settled about the same time, possibly not on the same day, or even the same week, but in the course of two or three weeks; and that, although one measure should first be adopted a little more favorable to one section of the Union than to another, yet that part of the Union which had been most favored by the adoption of that measure would not fail to do what was right and proper when a measure came forward advantageous, not to itself, but to another portion of the Union. That was my idea. So with respect to this measure, if it is referred to the Committee on Territories. When they will report I can not tell. It will be some time before they can make the report, and it will be some time after the report is made before it is acted upon; and it will be weeks, perhaps months, before a bill admitting this State into the Union passes through both Houses. In the mean time, as one measure passes from us, we can be acting on others, and bringing in the bills and taking them up as they arise.

I have now explained the course which I trust it will be proper to take on this occasion, and I am sure that not even the senator from Mississippi can now believe that I stand pledged to one general comprehensive bill to combine all the measures to which he has referred.

Mr. Foote. I was quite startled by one remark which fell from the lips

of the honorable senator from Kentucky just now. He insinuates that he fears that some persons in the South are aiming to establish a southern confederacy.

Mr. CLAY. Not at all.

Mr. FOOTE. What did the honorable senator mean then, by disclaiming so emphatically all allegiance to a southern confederacy, now or hereafter?

Mr. CLAY. The honorable senator knows perfectly well that the language, as used here again and again, is "treachery to the South," "abandoning the South," "failing to uphold the interests of the South." Now, what I meant to say was, that I knew of no South in the shape of a confederated government; no South to which I owed allegiance. I did not mean to say that there was a solitary individual in the South in favor of a dissolution of the Union.

[We may add the following on the same subject, between Mr. Clay and Mr. Butler of South Carolina, which occurred February 15th.]

Mr. BUTLER. When, the other day, the senator from Kentucky said he knew no South in his allegiance, and again repeated there was no allegiance in his mind to the South, I was prepared to hear him say, "nor to the North, nor to the West, nor to the East, but to the Union;" and with such a declaration I might have been satisfied; but to single out the South as not claiming his allegiance gave me pain.

Mr. CLAY. I think I did say the North. I do not know that I went all around the different points of the compass. That is what I meant, however, if I did not use the expression. I meant then, and I mean it now, that I know no allegiance to any one section—East, North, West, or South. And I know, I repeat, of but two sovereignties to whom I owe allegiance—the one the Union, and the other my own State. That is what I meant.

February 20, Mr. CLAY said:

I thank the honorable senator from Michigan for the few remarks which he has just addressed to the Senate; and I beg leave to say, sir, that I have not a particle of doubt that the speech, the short, and to me grateful speech that he made the other day, was perfectly spontaneous and unpremeditated. I do not know when I have heard from any senator the utterance of sentiments with more pleasure than I did those from the honorable senator from Michigan on the occasion to which I allude. And, sir, allow me to say that the language in which the gentleman has just closed his short address to the Senate, that it is "ultraism" of which this country, at this moment, stands in so much danger, is founded, I lament to say, too much in truth.

Sir, it is not my purpose to enter into an elaborate reply to the argument of the eloquent gentleman from Alabama—a senator who, I am in hopes, will add honor to this body by the talent and ability which he has

brought into it. But, sir, it seemed to me that there were two or three observations made by that senator which demand from me some short notice. And the first is an allusion to an intercourse between a senator who is not now in his seat—the senator from Missouri—and myself, in which the gentleman remarked that the lion and the lamb had got together. I do not know to which of these quadrupeds he assigned me; I should make a very poor lamb I am afraid, and I am very far from being ambitious of claiming the prowess of the lion.

Mr. CLEMENS. I meant, of course, that the senator from Kentucky was the lion. I meant simply to express, by this figure, that they who had always heretofore been the antipodes of each other, had now met together upon this question, and therefore that the South was menaced with danger.

Mr. CLAY. I beg leave to commend to the honorable senator the philosophical mode which was recommended to mankind by Lord Bacon; that is, to ascertain facts before he proceeds to argue upon them. Now, upon what facts does he undertake to assert that there has been any co-operation whatever between the honorable senator from Missouri and myself? Upon what facts does he assert this? And if no facts exist, I will ask of him what right he has to comment or animadvert upon any supposed intercourse or co-operation which might take place between the honorable senator from Missouri and myself?

Why, sir, the truth is, that there existed for several years no very friendly social intercourse between the senator from Missouri and myself—a state of total non-intercourse, if you please—embargo, and all other restrictions that belong to commerce between nations; but, sir, two or three years ago we came together again, and restored relations, at least of civility and amity, which I was very glad of, as I always am, to make peace with any one. I would do so with the whole world, if I could.

Now, sir, with regard to the fact of co-operation, if the senator had done me the honor to inquire, I would have told him with great frankness and truth that I never saw the proposition of the senator from Missouri—the proposition that is embraced in the bill that he has presented here respecting the boundary of Texas—nor had any communication, oral or written, with him on the subject, until his bill was presented. And with reference to the resolutions which were offered by me, the eye of the senator from Missouri never gazed upon them, nor had he ever heard their contents; he had no more knowledge of them before I presented them to the Senate than had the senator from Alabama himself.

Well, then, sir, what facts had he to go upon? Does he mean to say that he feels himself at liberty, when, as was the fact the other day, the honorable senator from Missouri came round here and had a little conversation with me, to speculate upon the occurrence of such an incident, and deduce from it what he pleases? Why, it is true, the honorable senator from Mississippi made an allusion to the same fact the other day; and I did not recur to it at the time, because it really passed out of my mind.

Mr. Foote. Will the honorable senator allow me to interrupt him for a moment? The reason why I alluded to it was, that the honorable senator from Kentucky had himself referred to it, and explained the matter very distinctly and clearly in our hearing. The senator from Missouri had risen and expressed his surprise and disappointment that the senator from Kentucky did not come to his rescue upon that occasion, as he had expected from the intercourse that had taken place between them. And when this was announced, the senator from Kentucky made his explanation, and that explanation, as I remarked at the time, verified the belief that I had previously entertained.

Mr. Clay. But the senator went on to say that he saw the senator from Missouri come over from the other side of the chamber to this, and that he saw some whispering between us, and then proceeded to make his own deductions, for which I say he had no authority. Now, I repeat that, between the honorable senator from Missouri and myself there was no interchange of opinion, either in regard to the project which he had submitted to the Senate, or in regard to the resolutions which I have presented. When the senator from Missouri, on the morning to which the senator from Mississippi on a former occasion alluded, and to which the senator from Alabama, I suppose, has alluded, came across the chamber, it was to speak of the disposition of the question before the Senate. And let me ask, has it come to this, that one senator can not commune with another about the disposition of the public business of the country without incurring suspicion, without subjecting himself to animadversion, and in such language as is tantamount to a formal accusation? I protest against the right of any senator to subject my conduct or intercourse with my fellow-senators to any such trial or test as that. But, sir, so deeply am I impressed with the awful crisis that exists in the country, that if the senator from Missouri had been the worst enemy, the bitterest enemy I had in the world, and I thought that by any conference or intercourse with him we could mutually dispose each other, and the Senate and Congress, to settle this distracting question, burying in a moment all animosity that I entertained against him, I would have gone to him as the best and most affectionate friend I had on earth, in order to produce such a great and glorious result as that would be of harmonizing the different portions of this at present unfortunate country.

Sir, it is possible, indeed I am inclined to think that, on the occasion of preparing these resolutions, I consulted with too few. Those with whom I did consult were generally my friends from the South; with one solitary exception, I consulted no northern gentlemen. In the years 1832–'3, when I had occasion to present a scheme for compromising another great question that then existed in this country I committed the opposite error: I consulted too many; the effect of which was to endanger the fate of the measure that I suggested. I determined, therefore, on this occasion, to consult as few as possible, and to limit myself, with the one exception that

I have referred to, to my southern friends. So much, sir, as to any supposed connection or co-operation between the senator from Missouri and myself.

But, sir, there are one or two points upon which I beg the Senate to indulge me in an observation or two, which have been suggested by the remarks of the honorable senator from Alabama.

I said, Mr. President, that with regard to California there was no concession on either side; that it was offering to the North just what the North wanted, but that they got it, not by the action of Congress, but by the people of California themselves, who had a right to decide whether they would admit or exclude slavery. Well, sir, let us see the argument by which, and the manner in which, the senator from Alabama has answered this. He could not deny the fact that the exclusion of slavery was to be found in the Constitution of California. That is incontestable. Nay, but said the senator, if Congress now admits California, Congress will be responsible for that clause in the Constitution of California which interdicts slavery. Now, sir, let us suppose the case which the honorable senator from Alabama has himself put. Let us suppose that there had been a census taken, that an enumeration of the inhabitants had actually been made, and that they were found to be sufficient in number to entitle California to admission into the Union; and let us suppose that an act of Congress had passed authorizing her, in the old mode of introducing States, to hold a convention and decide for herself whether she should become a member of this Union or not. Suppose that she had formed a Constitution and declared her desire to become a member of the Union, and had come here and solicited admission. Well, if Congress admitted her, would it not have been Congress, then, that did this? Would it not have been Congress that authorized the taking of the census? Would it not have been Congress that passed the previous act authorizing them to meet in convention, and to determine whether they would or would not become a member of the Union? Would it not have been Congress that gave her the power to come here and ask for admission? And would it not have been Congress that finally received her? And might not, upon such a supposition, the honorable senator as readily charge Congress with indirectly excluding slavery from California as he can do it now?

Sir, I understand that, no matter how her Constitution may be formed, whether with or without the consent of Congress, when that Constitution is presented to us, our consideration is limited to the inquiry whether it is republican. It is true, that where a Constitution has been formed with some degree of irregularity, as in the case of California, you have to consider of that irregularity, and determine whether, as statesmen looking to great objects, looking to the accomplishment of a great purpose—a purpose affecting the harmony of this Union—you are to be led off by mere technicalities as to the admission of a State under these circumstances.

Well, sir, it is just as much the right of California to decide the ques-

tion of slavery for herself as it would have been if a previous act of Congress had passed authorizing her to form herself into a State, and we had admitted her afterward. And Congress is no more responsible for the interdiction of slavery which exists in the Constitution of California now, than Congress would be responsible for it if there had been a prior act of Congress authorizing the people of California to consider for themselves, and to determine whether they would or would not come into the Union as a member of it.

I have said, sir, and I repeat, that I have heard nothing yet that in the slightest degree contravenes the force of this argument. I said that, in regard to California, she had an excuse which did not exist in the case of other States that have been admitted into this Union without previous authority of Congress. In the case of the other States, they were not abandoned by Congress. Congress performed its parental duty of providing for them suitable territorial governments. They had got governments; they had got good governments; they had got free governments. But what is the case in regard to California? She was abandoned by Congress at the last session. Congress failed to discharge its parental duty toward California at the last session. She was in a state of profound and perfect anarchy unless she could obtain or make some laws suited to her abandoned condition. And, when thus abandoned by Congress, what does California do? Why, she calls a convention, and that convention forms a Constitution—a very excellent Constitution, as I believe, so far as I have looked into it. She chooses herself, of her own free will, to refuse to admit slavery within her limits; and she now comes here. How? Dictating to Congress? No, sir; she comes to the very parent who has treated her in this heartless manner, respectfully asking the parent who has thus turned her loose, cast her off from all law, without a government emanating from the only authority which could institute a real and legitimate and proper government—she comes to her, how? Threatening to make herself independent—threatening secession, threatening disunion? No, sir, no; she comes here, and in a most respectful, if not in a most humble manner, asks you to admit her to the enjoyment of the blessings of self-government, which you denied to her in any form at the last session of Congress. And you are bound, not only by the Constitution of the United States, but by the treaty by which she was acquired, and by the higher law of God himself, to give to those who are thrown into your power or possession, by conquest or by purchase, the benefits of government. You have refused, sir, you denied to her a government. You abandoned your child, and now, when that child comes to you, having shifted for itself as well as it could in the absence of your parental authority, you reproach it with usurpation, with impudence; and are ready—at least some portion of Congress seems ready—to repel her from your doors, and send her back without any suitable government, to shift as she can during the residue of this contest, which may last for years.

The difference, therefore, between the case of Michigan and that of California is the difference between government and no government; between government and anarchy; between the exercise of parental authority on the part of Congress toward Michigan, and the abandonment of all duty, constitutional, natural, and parental, on the part of Congress toward California. And yet gentlemen can see in one case apologies for the conduct of Michigan, and can see none in the case of poor California.

Michigan had, we are told, been patiently knocking at our doors for years, and yet we rejected her. Why, sir, there were some difficulties, not altogether insuperable, to be sure, about the extent, about the limits, the boundary of that State, and some difficulty resulting from the contest between her and her neighbor Ohio. These were some of the difficulties which existed, but all this time she was enjoying a government; all this time she had her own Legislature, her own representation, her own laws; she had the power to govern herself as she pleased in her territorial condition.

Sir, it does seem to me that if we will look at things as they are, and not be misled by mere forms, by technicalities not worthy of consideration for a moment, that we will not only draw a distinction favorable to California between her case and that of Michigan, but that we will draw from the facts in the case a conclusion of duty, which, for one, I am ready and anxious to perform.

I heard a sentiment uttered to-day which I have again and again heard uttered, and which I have never heard uttered but with a shuddering and apprehension. We are told that upon certain contingencies, upon the occurrence of certain events, the South must take a particular, a specified course, regardless of consequences. Regardless of consequences! Why, sir, can we acquit ourselves to ourselves, can we acquit ourselves to civilization, can we acquit ourselves to that religion which we all profess to respect and adhere to; can we acquit ourselves to the great God of heaven himself, if, upon a measure of this magnitude, of this transcendent importance, we are to take it regardless of consequences? Sir, I know of no condition of man, individually or associated, wherever he may be, whether solitary and alone, in the midst of the wide prairies of the West, or upon the ocean's billows when tossed by storms, or acting in a deliberative assembly, I know of no condition where a religious, moral, rational, responsible being can take a step regardless of consequences. Sir, it is precisely because I do regard consequences, and I apprehend them, not to this or that side of the Union alone, but to all parts, to the entire country—consequences not only affecting us, but affecting all mankind, in a greater or less degree; consequences which affect the existence of self government, which affect the preservation of liberty itself; it is because I do look to these consequences, because I regard them, because I have deliberated upon them, that I am led to the conclusion of making an exertion, of making every effort the power to make which is yet reserved to me to avert the

greatest of all human calamities, not only that could befall this country, but that could befall the whole race of civilized man. * * *

A word or two only, Mr. President. I do not rise to prolong this discussion, from which I do not perceive that any profitable results are likely to accrue. With respect to the honorable senator from Mississippi having a right to comment on my public conduct and career, I have never doubted it; I have never complained of it. I did complain that the honorable senator should describe the position of myself in relation to another senator some days ago, and draw from our respective attitudes certain conclusions.

Mr. Foote. Will the honorable senator bear with me for a moment? He will find in my printed speech, now lying before me, that I did not question his motives.

Mr. Clay. I know that. But will the senator tell me what sort of intention is implied, when one who is intimated to have been animated by corrupt purposes—as was intimated with regard to the other senator—is dealing with me, conversing and conferring with me; and how I, as a man of honor, could listen to his language while making such overtures—

Mr. Foote. The senator will recollect that I commended him for not permitting himself to be made use of in this way. [Laughter.]

Mr. Clay. I know the kindness of the honorable senator's nature. I have had abundant evidence of it; and it would be extremely difficult for him to make me think otherwise than that in all the private relations of life at least he is as kind as any other senator in this body. But let me put it to him, in that spirit of moderation in which he would address me. There was a senator came to me this morning (I will not tell whom—that is a matter between the senator and myself), and, leaning over the bannister at the back of my chair, we had a very long and interesting conversation upon the most important topics of the day, in which there were many things said not necessary or proper now to repeat. Now, suppose that some northern man had watched the motions of the honorable senator from Miss— ah! I beg pardon, I was just going to name him. [Laughter.] Does the honorable senator allow me to refer to him?

Mr. Foote. Unquestionably. Will the senator allow me simply to say that I have nothing to conceal; I wear my heart upon my sleeve; and if there was any thing illicit in the language I used he is welcome to proclaim it. I happen to be a man who would not be suspected of any thing fraudful.

Mr. Clay. I was about to say, sir, that the honorable senator from Mississippi himself came to my seat this morning, and we had a very long and interesting conversation, and he spoke of the ways and means of the delivery of our country from the difficulties which now surround it. Now, suppose that any northern or southern man, having watched the movement of the honorable senator, in coming over to me, should rise in his place and impute motives which did not exist—make charges wholly unauthorized—would he not conceive it improper?

Mr. Foote. It would be very wrong.

Mr. Clay. Is it not improper for the private intercourse which may take place from time to time between any two senators in this body to become the subject of public observation, and compose a part of the animadversions which senators may choose to throw into their speeches? That is all I have to say upon that point.

Now, with regard to the reference which the gentleman has made to a letter of mine addressed to a free-soil Convention in Ohio during the past summer; that is all fair, and I shall state what the contents of that letter were. I was invited to attend the celebration of the anniversary of the passage of the ordinance of 1787; and I think I gave a very delicate rebuke to the parties sending me an invitation to the celebration of any such day. I said that it was the first time the day had been celebrated, although sixty years have elapsed since the passage of that ordinance. I added, and I add here and everywhere, that not one of them, that no man in the United States was more opposed than I was to the introduction of slavery into any of the new territories of this country by positive enactments of law, and that I did not believe there existed, under the present state of what I conceive to be the laws of Mexico, any right on the part of any individual to carry slaves there. This is what was in the letter.

The honorable senator has chosen to go back for a term of fifty years. I do not know that there is any great merit in uniformity or consistency on the part of public servants. There is one advantage in it, which I will state. If a man is uniform in his conduct, it can always be inferred, if any new case or exigency arises, where he will be; but if he is perpetually vacillating, no matter what may be the motives for the change of his conduct, it is impossible to place him. Although, as an abstract truth, we may possibly allow that where a man honestly changes his opinion, it is from an internal conviction of the error of that opinion, the difficulty is in making mankind believe in his sincerity for having done it. I therefore think it is better, as a general rule for public men, that they should never change their opinion unless on palpable evidence, which all mankind consider as plain.

I have made no change. From the earliest moment when I could consider the institution of slavery, I have held, and I have said, from that day down to the present, again and again, and I shall go to the grave with the opinion, that it is an evil, a social and political evil, and that it is a wrong as it respects those who are subject to the institution of slavery. These are my opinions. I quarrel with no man for holding contrary opinions; and it is perfectly true that in my own State, about this time last year, I addressed a letter to a friend in which I suggested these opinions, and sketched out what appeared to me might be a practicable plan for the gradual emancipation of slavery in Kentucky That letter I chose to put on record. I knew at the moment when I wrote that letter at New Orleans, as well as I know at this moment, that a majority of the people of Kentucky would not adopt my scheme, or probably any project what-

ever of gradual emancipation. Perfectly well did I know it; but, sir, I was anxious that, if any one of my posterity, or any human being who comes after me, should have occasion to look into my sentiments and ascertain what they were on this great institution of slavery, to put them on record there; and ineffectual as I saw the project would be, I felt it was a duty which I owed to myself, to truth, to my country, and to my God, to record my sentiments. The State of Kentucky has decided as I anticipated the State would do. I regret it, but I acquiesce in her decision. I wish it had been otherwise; but I acquiesce in it most cheerfully, and no man hereafter will see me making any efforts there, or anywhere else, to disturb the deliberate decision of the commonwealth made after full consideration.

Now, I really should be much indebted to the honorable senator for the sympathy which he felt for me, in respect to the recent attack, which I believe has been in the newspaper which I think has been laid on the tables of all of us. But, sir, I desire the sympathy of no man—the forbearance of no man; I desire to escape from no responsibility of my public conduct on account of my age, or for any other cause. I ask for none. I am in a peculiar situation, Mr. President, if you will allow me to say so—without any earthly object of ambition before me; standing, as it were, upon the brink of eternity; separated to a great extent from all the earthly ties which connect a mortal with his being during this transitory state. I am here expecting soon to go hence, and owing no responsibility but that which I owe to my own conscience and to God. Ready to express my opinions upon all and every subject, I am determined to do so, and no imputation, no threat, no menace, no application of awe or terror to me, will be availing in restraining me from expressing them. None, none whatever. The honorable senator, if he chooses, may deem me an abolitionist. Be it so. Sir, if there is a well-abused man in this country—if I were to endeavor to find out the man above all others the most abused by abolitionists, it is the humble individual who is now addressing you. The honorable senator from Mississippi does not perhaps see these papers as I do; but they all pour out from their vials of wrath bitterness which is perfectly indescribable; and they put epithets into their papers accompanied with all the Billingsgate which they can employ, and, lest I should not see them, they invariably take occasion in these precious instances of traduction to send their papers to me. I wish the honorable senator from Mississippi [Mr. Foote] could have an opportunity of seeing some of them.

Mr. Cass. I can give the honorable senator from Mississippi a bushel of them, if he will take the pains to read them; and I must say that the honorable senator from Kentucky is about the best-abused man in all this Union, with perhaps but one exception. [Laughter.]

Mr. Clay. Now, sir, when I brought forward this proposition of mine, which is embraced in these resolutions, I intended, so help me God, to propose a plan of doing equal and impartial justice to the South and to

the North, so far as I could comprehend it; and I think it does yet. But how has this effort been received by the ultraists? Why, at the North they cry out—and it is not that paper alone to which the honorable senator from Iowa [Mr. Dodge] refers, but many other papers also—they all cry out, "It is all concession to the South." And, sir, what is the language in the South? They say, "It is all concession to the North." And I assure you, Mr. President, it has reconciled me very much to my poor efforts, to find that the ultraists, on the one hand and on the other, equally traduce the scheme I propose for conceding every thing to their opponents.

The honorable senator from Mississippi says I have not spoken in such fervent language, on this occasion, as I did eleven years ago. Sir, I think I have employed as strong language as was suited to the occasion, and the office I am endeavoring to perform to both sections of the Union. Did I fail to reproach the North with a violation of constitutional duty with regard to fugitive slaves? Did I fail to go as far—further, perhaps, than any other senator on this floor—to reproach her also, or to remind her, that this feeling was with her a sentiment of philanthropy and humanity only, while with us it was a feeling which involved the safety of our property, a question of life and death? But, sir, I will not take up the time of the Senate in further discussing this matter. The resolutions, and the speech with which I supported them, are both before the country, and of them the country must judge. But, sir, I would ask the honorable senator from Mississippi if he is conscious of the language which he used? He said, if I understood him aright, that when I addressed the Senate on a former occasion, instead of adhering to the interests of the South, I had gone over to the ranks of the enemy. Enemies! Where have we enemies in this happy and glorious confederacy?

[On the 1st of April, 1850, Mr. Clay made some very interesting and touching remarks on the death of the Hon. John C. Calhoun, extracts from which will be found in vol. iii., page 453.]

ON MR. FOOTE'S MOTION

FOR A SPECIAL COMMITTEE TO PREPARE A BILL OF COMPROMISE ON MR. CLAY'S AND MR. BELL'S RESOLUTIONS.

IN SENATE, APRIL 8, 1850.

[On the 28th of February, one month after Mr. Clay's resolutions of compromise had been submitted, Mr. Bell of Tennessee introduced another set of resolutions having the same object; and Mr. Foote of Mississippi subsequently moved for the appointment of a special committee to prepare a bill or bills of compromise, embracing the general subject of Mr. Clay's and Mr. Bell's resolutions, which resulted in the appointment of the Committee of Thirteen, April 19. It was during the pendency of this motion that Mr. Clay made the following remarks.]

Mr. President—Although far from being well, suffering still under the common malady of the times—the influenza, I suppose—I feel myself called upon to make some reply to a portion of the arguments which we have just heard from the senator from Missouri. Sir, I have to express an unfeigned regret that it is not my fortune to concur in opinion with that senator in reference to the mode of accomplishing a common object which we both have very much at heart. My respect for the ability, and my deference to the long service and great experience of that senator, and my knowledge of the deep interest which he takes, and in which I most heartily share, in the admission of this new State as soon as practicable, renders it extremely unpleasant, and as I think unfortunate, that we should differ as to the means of accomplishing a common object.

Mr. President, I stated on Friday last, and I have on various occasions stated, that, for one, I was ready to vote for the admission of California separately, by itself, and unconnected with any other measures, or in conjunction with other measures. And I stated on that occasion to the Senate and to the senator from Missouri, that I believed, as I yet believe, that the most speedy mode of accomplishing the object which both he and I have in view, is by combining some of these measures in connection with California, and by this combined bill presenting subjects which, I shall presently show, are fairly connected in their nature, to the consideration of

Congress at one and the same time. The whole question between the senator from Missouri and myself, is, which is the best mode of accomplishing the object. I say, connect the several measures together; he says, no, take California separately and alone. Sir, I should be glad, if the experiment could be made without injury to the public, that the two modes should be tested by experience, and it would then be ascertained whether the senator from Missouri or myself was correct. He has made an allusion to a remark of mine on Friday last, with reference to the difficulties that may arise on the passage of a bill alone for the admission of California, and he has inquired what I had in contemplation at the time I made that remark. Mr. President, I had various matters in contemplation at that time, and one was this. About California we all know there is no difficulty as to her admission, either separately or conjointly with other measures: we all know perfectly well that there are large majorities in both Houses in favor of the admission of California. We know at the same time that there are great difficulties with reference to the passage of territorial governments unconnected with the Wilmot proviso. We know that one portion of Congress desire very much the admission of California, when many members comprising that portion are opposed—some to the establishment of any governments at all for the Territories, and many of them to the establishment of such governments without the introduction of the proviso. Thus, while that party, anxious for the accomplishment of its own views and the satisfaction of its own wants, are pressing on for the passage of a bill for the separate admission of California, they are holding back in reference to other subjects equally important to the great object which I trust animates the breasts of all—the great object of quiet and pacific action to the country. And, beside, there are those who desire the establishment of governments for the Territories without the proviso, but who are willing to take the admission of California in combination with governments for the Territories without the proviso. I did allude to other considerations, not likely to happen in this House, but which have happened, and may again happen in the other House of Congress; I did allude to what we heard said, not in approbation—far from it—but with most decided disapprobation of it on my part. I did hear—as we know has occurred once at least on one day during this session—that if it was attempted to force on the minority of that House a measure which is unacceptable to it, and abhorrent to its feelings, without its association with other objects in view, that minority would resort, in resistance of it, not I trust to acts of violence, but to those parliamentary rules and modes of proceeding of which we have had before instances in this country, and which I myself witnessed forty years ago, in a most remarkable degree, in the House of Representatives, and which we know some consider lawful at any time to be employed. For myself, I differ perhaps from most members of this body, or of any deliberative body, on this subject. I am for the trial of mind against mind, of argument against argument, of reason against rea-

son, and when, after such employment of our intellectual faculties, I find myself in the minority, I am for submitting to the act of the majority. I am not for resorting to adjournments, calls for the yeas and nays, and other dilatory proceedings, in order to delay that which, if the Constitution has full and fair operation, must inevitably take place. There is great loss of sleep, with great physical discomfort, in the one mode of proceeding, without any in the other. But, while this is my judgment of what is proper, in deliberative bodies, other gentlemen entertain different opinions. They think it fair to employ all the parliamentary means that are vested in them by the Constitution, or by the rules which regulate the body to which they belong, to defeat, impede, or delay to any extent the passage of the measure which they consider odious. I repeat, sir, I do not justify such a course; but we must take man as he is, with all his weaknesses and infirmities, and we can never expect to make him as we could wish him to be.

Now, the senator from Missouri has chosen to characterize this measure with unfairness of proceeding. Sir, if I were disposed to retort, which I am far from doing, I could say that there had been some unfairness in the argument of the senator from Missouri, when he endeavored to show that the pending proposition was to combine California, the territorial governments for the two proposed Territories, the fixation of the line of Texas, the fugitive slave-bill, the bill for abolishing the slave-trade in this District, abolition, and God Almighty knows how many other subjects, which his imagination depicted as contemplated to be introduced into our omnibus bill, and to be considered in that way. The senator from Missouri knows perfectly well that no such purpose existed, and he has no right to infer any purpose of the kind. No longer ago than Friday last, when I misunderstood my colleague, and supposed that his object was to combine this fugitive slave-bill with these measures, he rose at once and disclaimed any such intention. Sir, nobody has gone further in this proposed combination of subjects than the admission of California, the establishment of territorial governments, and—doubting its propriety, as I did on Friday, not being absolutely determined in my own mind—adding to these two measures the establishment of a suitable boundary for Texas, with the offer of an equivalent for the surrender of any title which she might be supposed to have in the territory so surrendered. Let us look, while on this subject of Texas, to another part of the senator's argument, and I put it to the candor of the senator to admit how unfair, how improper, at least, it is to suppose that, by such a combination as I have indicated, the result would be to give Texas a veto on California? Who imagines that? You pass a bill with the separate section for the admission of California, other sections in the same bill establishing governments in the two Territories, and other sections in relation to the proposition to Texas for the settlement of her boundary, making her certain offers, and this latter proposition dependent on the consent which Texas might or might not give. But suppose Texas

does not give her consent, does any body say that the other parts of the bill would become dead or nugatory? Each portion of the bill is of force and effect according to the object in view, and each might stand, although the other portion of the bill might be rendered null, in consequence of the non-concurrence of Texas in any other power.

It has been said that it is wrong to make those who might be in favor of the admission of California, and against the establishment of territorial governments, or *vice versâ*, vote on such a combination—that it would be wrong to combine them in one bill, because they would have to vote against both, not liking a portion of the bill, or for both, still disliking a portion of the bill. And we are told that what the wisdom of California suggested in her Constitution—that is to say, the keeping of subjects separate and distinct—is thereby to be disregarded. Now there is very little of practicability in this idea of a total separation of subjects. Suppose you have the California bill alone before you, is that a single idea? There is first the admission of the State, and secondly the proper boundaries of the State. Now there may be senators, if you had this single bill before you, who would say we are willing to admit a State, to be carved out of this territory, but we are against the boundaries proposed, and why not separate it into two bills, one for the admission of the State, and the other for the fixation of its limits. Why, thus you might go on, cutting subjects up into as many parts as they are capable of being divided into, and say that each one of them shall contain a single, and only a single, idea. Take the tariff bill. It contains five hundred items usually, and we have never passed a tariff bill, or given a vote upon it, without some parts of it being objectionable to some, or that did not contain items for which some man voted against his judgment, but which he did vote for, because of other items in the same bill. And so with the course we propose. If we combine together a bill for the admission of California, and for governments for the Territories, in the first place those who opposed the combination may oppose it. If it is introduced already in the bill, it may be proposed to strike out what relates to the Territories; or if it is proposed that they shall be added to the bill for the admission of California, they can move amendments, call for the yeas and nays, and thus show their opposition to the association of the measures together. But suppose the majority overrules them. Suppose there is a majority in favor of the association of the measures, and then the final question is put: Will you vote for or against the bill? And what are you to do in a case of that kind? Exactly what we would do in all human concerns. There is bad and good mixed together. You may vote against it if you please in toto, because of the bad there is in it, or you may vote for it, because you approve of the greater amount of good there is in it. The question for the time is, whether there is more of the good than of the bad in the bill; and if the good outweighs the bad, that will be a further consideration for voting for the whole measure.

But, sir, my object now is to show that there is a perfect connection between the subjects proposed to be united, and I refer not to what the senator from Missouri has charged, but to the State of California, territorial governments for the Territories, and at most the fixation of the boundary of Texas. Sir, are these subjects connected together or are they not? Let us look at facts and at history. Let us appeal to the very facts which the senator from Missouri himself insists ought to be so influential on our judgment. Well, sir, California, New Mexico, and Utah, all were component parts of the Mexican republic, and they were ceded together, in association, to the republic of the United States. They were of a like grade of government in Mexico. All of them were provinces; none of them were States under the Mexican republic. They came here together, in association, under the treaty by which we acquired them. They came here at the last session together, all imploring the establishment of territorial governments within their respective limits. It was not done. Why was it not done? The South reproaches the North for not doing it, by saying, You insisted upon the introduction of the Wilmot proviso. The North reproaches the South by saying, You are responsible for it by opposing the Wilmot proviso.

Mr. President, both parties were wrong, and neither was wrong. They were wrong in the aggregate, but not wrong separately. They were wrong in the aggregate because Congress failed to devise and establish governments which it was called upon to do by all the solemn obligations of treaty stipulations, and all the solemn duties which resulted from the fact of the acquisition of those territories by this country. They were not wrong separately, because, you who contended for the proviso did so, I have no doubt, honestly, and you who opposed the proviso, did so, I have no doubt, honestly. It was a case, therefore of irreconcilable difference of opinion between two large parties in Congress; and their convictions, their consciences, respectively restrained them from yielding the one to the views of the other. No reproaches, therefore, I think, can justly be made by one party upon the other. It was a subject of deep and profound regret that proper governments were not then devised, but it was attributable solely to those unhappy divisions which sometimes exist in deliberative bodies, and prevent legislation. But, sir, these territories were all together—Utah, California, and New Mexico. One short year ago they were all territories, and allow me to say, however much it may be emphasized, that California is no State yet, and she can be no State until she has the seal and sanction of the paramount authority which pervades all this country. It is in the power of Congress, if it choose to exercise the right, to put down the present State government which has been established there, and establish a territorial government there. I am not disposed to charge on a community the misconduct or peculiar opinions of any individual of that community, but I must say what I have been constrained to feel, that I am pained to see with what contumacy, with what

disregard of the allegiance due from the States, old and new, they sometimes treat the parental and paramount authority. And I was lately—I will not say provoked, for the annoyance was too slight—somewhat grieved at seeing some letter-writers from California talking already of breaking off from this Union and setting up for themselves. They will venture on no such hazardous experiment as that. If they do, I venture to say the common authority of the Union will recall them to obedience and a sense of their duty very quickly. But, sir, these three Territories, one of which is now called a State, were component parts of Mexico, and they are now component parts of the United States; and allow me to say in reference to that part of the argument of the senator from Missouri which speaks of the wretched condition of California at this moment, with her mines of boundless extent of gold—that desperate condition, that anarchy with which she is threatened, that want of law which exists, that danger of breaking into pieces (for such I believe was the remark of the honorable senator) if there is not some legislation here—do not all these considerations, every one of them, apply with equal force, and ought they not to receive equal application, to the Territories of Utah and New Mexico? Why, in regard to New Mexico especially, she is not only at present without any government, except some patched-up military form of government, but she is at this moment threatened with civil war with her neighbor Texas, and if I were to single out of these three Territories, that in regard to which it was the most imperative duty of Congress at once to legislate, I would say it was New Mexico, and the adjustment of the boundary between her and Texas. Every consideration derived from anarchy, confusion, the want of government, the want of law, the danger from disorder which the senator has arrayed in reference to California, applies with full force and vigor to New Mexico. Well, how does this matter stand? The three sisters came here at the last session of Congress: New Mexico the eldest, California next, and Utah the youngest. They came here all soliciting territorial governments. Attempts were made to give them all territorial governments, but they failed. In the mean time, Miss California has made a runaway match of it—and she has not only done that, but she has taken as large a portion of the common patrimony of the whole as she pleases. She comes here now with her two sisters—the one older and the other younger—and cocks up her nose, and asks if you will associate her with those two girls. [Laughter.] Mr. President, I might laugh, if I did not feel the profoundest respect toward California; but, as was asked on another memorable occasion, "Ye gods, on what meat has our Cæsar fed, that he has grown so great?" I believe the meat of California would seem to be gold; for although it appears to abound in all parts of the country, yet it is said that they can not carry on the government without some loan. I have seen some documents of late from the Legislature of California, and I find in one of them a very sensible report to one branch of the Legislature, in which it is proposed to levy a

poll tax of five dollars, which it is said will collect an ample revenue by July next for all the purposes of the government. But is there not, in the nature of the subject—which is the establishment of governments for our recent acquisitions; is there not in the fact of their community of existence heretofore, and in the community of their present existence; is there not in the fact that we propose government for the one, matured, it is true, in the form of a State government, and for the others, governments also adapted to their peculiar condition—ample reason why they should be combined? And what is there, I ask, in the nature of the case, that offends the dignity of California, or renders it less to her honor to be associated hereafter, where she has always been associated heretofore, with Utah and New Mexico?

But, sir, the honorable senator from Missouri has endeavored to place himself behind precedent, and he asserted that in every instance of the admission of a new State the question of admission has stood by itself, unconnected with any measure whatever. Now, it is very remarkable that that honorable senator did not recollect the case of the admission of the very State of which he is such an able and efficient senator. Why, sir, that State was not admitted alone. Other subjects were connected with the act by which she was admitted. Here it is:

"An act to authorize the people of the Missouri Territory to form a Constitution and State government, and for the admission of such State into the Union, upon an equal footing with the original States, and to prohibit slavery in certain Territories.

And the eighth section of the bill provides expressly, not merely for the establishment of a temporary territorial government, but a permanent, perpetual, fundamental law in reference to these other Territories:

"That in all the territories ceded by France to the United States, under the name of Louisiana, lying north of 36° 30′ north latitude, not included within the State contemplated by this act, slavery and involuntary servitude, otherwise than as a punishment for crime, whereof the parties shall be duly convicted, shall be, and is hereby, forever prohibited."

What did we do in the case of Louisiana? In 1805 two territorial governments were established—one for the Territory of Orleans, and the other for the Territory of Louisiana; the latter one embracing the very State to which this provision in reference to slavery was applied. But if I were to open the records of this body what would they disclose? Not a Territory and a State combined, but two States, as far separated from each other as possible, were combined by the Senate of the United States in the same bill, and by a perseverance almost unexampled in the history of legislation, each House, having disagreed with the other—vote after vote was taken without any practical result. But they finally saw land, and the question was settled by the Senate yielding to the separation of the two

States, Maine and Missouri, in consideration of the introduction of the free clause to which I have referred. But, if there were no precedent in the case, I might very properly say that the peculiar situation of affairs would supply a precedent. There is, I admit, no case exactly in all points like California, and the two Territories adjacent to it, which are seeking the establishment of territorial governments.

In most of the cases to which the honorable senator has referred, Vermont, Kentucky, Tennessee, and others, there was but one single Territory to be admitted, and that was clearly defined; and its muniments ascertained by the parent States. But here we have the subject before us, and I put it to you, sir, and to every member of this body, if there is not a connection, and fitness, and propriety, and sympathy, in the subjects themselves, that not only warrant but demand that you should connect them together.

But, sir, see the enormity of this proposition. I hope it will be distinctly understood that I am equally anxious with the honorable senator from Missouri for the admission of California. I think her admission has been improperly delayed; it has been unavoidably delayed, by causes which we all know and understand. But not only does the honorable senator require that this elder sister, who treats with so much contempt the other poor members of her family—not only does he require that her superior honor and dignity shall be recognized, but he exacts from us that she shall be kept separate and alone; that she shall not be contaminated by any sort of connection with her sisters, lest she might contract some contagious and fatal disease. The honorable senator is not satisfied that she should stand alone, but she must lead off in the dance: she must precede all the others. He insists that it will be treating her with indignity, with contempt, if you take up the territorial bills in the first instance, and act upon them before you act upon the question of the admission of California.

Mr. President, I hope I am doing a less imprudent thing in the attempt I am making to keep these subjects together than I am doing in regard to my personal condition in occupying so much of your time. If I had supposed otherwise, I should not have said a word. But, sir, I hope I have said enough to show, first, that California would be more speedily admitted by being connected with the Territories in a common bill than if it should stand separated from them; secondly, that there is no incongruity in the association of the subjects; and, thirdly, that according to precedent and all the analogies to be drawn from precedents not exactly like, but somewhat similar to, the present case, there is no impediment in the way of the course which I have proposed. And if I am right in this view, I am sure no difficulty need be apprehended. Every member of this body is desirous of restoring once more peace, harmony, and fraternal affection to this distracted people. Various projects have been suggested to accomplish that patriotic object. Among them a proposition has been made by the senator from Mississippi to refer all the subjects to one committee, to be

appointed by the Senate, with power to report as that committee may, upon consideration, deem it best, either a separate or a conjoint measure. The purpose of the committee is to settle, if they can, the causes of difference which exist in the country by some proposition of compromise. There are, no doubt, many men who are very wise in their own estimation, who will reject all propositions of compromise, but that is no reason why a compromise should not be attempted to be made. I go for honorable compromise whenever it can be made. Life itself is but a compromise between death and life, the struggle continuing throughout our whole existence, until the great Destroyer finally triumphs. All legislation, all government, all society, is formed upon the principle of mutual concession, politeness, comity, courtesy; upon these, every thing is based. I bow to you to-day because you bow to me. You are respectful to me because I am respectful to you. Compromise is peculiarly appropriate among the members of a republic, as of one common family. Compromises have this recommendation, that if you concede any thing, you have something conceded to you in return. Treaties are compromises made with foreign powers contrary to what is done in a case like this. Here, if you concede any thing, it is to your own brethren, to your own family. Let him who elevates himself above humanity, above its weaknesses, its infirmities, its wants, it necessities, say, if he pleases, I never will compromise, but let no one who is not above the frailties of our common nature disdain compromises.

Well, what does the honorable senator from Mississippi propose? Here is a proposition to refer all the subjects to a committee with a view to a compromise. The honorable senator from Missouri rises up and says no; here is one subject that you must not refer to the committee; another senator may rise up and say here is another subject that you must not refer; and a third may rise up and say here is a third subject that you must not refer to the committee. This proposition establishes a committee the object of which is to compromise all the differences that arise out of the subject of slavery. Constitute your committee for such a purpose, and then take from them the consideration of one branch of the subject. Would this be right, sir? Can you not trust your committee? Whatever is done by the committee has to be brought before the Senate for its consideration, for confirmation or rejection at the pleasure of the Senate. If they report an improper bill, either as a separate measure, or a connected measure, you have the controlling power. Will you not allow the subject to be considered, examined, determined upon by the committee, according to the best judgment of those to whom you confide the great and responsible duty? Sir, I am done; I ought not to have said so much, and I beg pardon of the Senate for occupying so much of their time.

ON ABOLITION PETITIONS.

IN SENATE, APRIL 18, 1850.

[During the debate on the Compromises of 1850, numerous abolition petitions were laid on the desks of members of Congress, which, if respectful, were referred. Mr. Clemens of Alabama, as will be seen from the following extracts from the debate of April 18, thought he had obtained a very pleasant morceau for the committee on abolition petitions, and gave notice that he should propose its being referred. It gave Mr. Clay an opportunity of making some remarks well worth being preserved.]

Mr. Clemens. I disagree with my colleague, and my friend from Mississippi, as to the importance of these abolition petitions. I think they are great humbugs at the best. I agree with the honorable senator from Kentucky that it will be proper to send them to this committee. I want them to go there; and, while up, I will give notice of a petition which I have received from New York, and which I shall present to-morrow, and ask that it shall go along with these petitions to the committee. I will read it.

"*To the Honorable the Senate of the United States respectfully showeth:*

"That your petitioner, with all respect to your honorable body, would urge the absolute necessity of establishing a United States lunatic asylum for the immediate treatment of some of the worthy senators and representatives now in Washington. Your petitioner has viewed with extreme pain the mad suicidal course pursued by some of the abolition members, and would respectfully entreat that they may at once be placed in confinement, so that they may not injure themselves, their friends, or their country."

It then goes on to name one particular senator, and to suggest that "he may at once be seized, and be placed in the most secure place in Washington, and that his head be shaved and blistered, and that he be at once bled and placed on a water diet." [Laughter.]

Mr. Clay. As to the point of order, the proposition is to refer these resolutions to a committee of thirteen, and we have been acting upon the subject. It is like putting in a plea in abatement, after putting in a plea on the merits of the case. We can do it if first made; but, according to

strict parliamentary usage, the first motion should have been to take up the resolutions of my friend from Tennessee and my own, and then to move to refer them. But, inasmuch as the motion was made to refer, and we have discussed the matter and proposed amendments to the resolutions before us, I think my friend from Illinois will concur with me, that, in this proceeding, it is rather too late to raise a question of order.

I wish, however, while I am up, to make a suggestion. This proposition is totally different from those we have been voting upon to-day. Those we have been voting on to-day were those of restriction. The proposition now is one of enlargement of the powers of the committee without restriction. And what is it? It is to refer all those questions to the committee, and to consider such circumstances as a proper respect will lead them to bestow upon them. I know that my friend from Alabama and myself differ about the propriety of the reference of these petitions, and I regret it. I have always been disinclined to give a chance to any portion of the country to reproach Congress for the non-reception of petitions, and it is precisely upon that same principle that I now hope the opposition to the reference of these petitions may be withdrawn.

Sir, I congratulate you, I congratulate the nation, I congratulate mankind, upon the prospect that now opens for a final and amicable settlement of this question. I believe such a settlement will be made after the occurrences in this body this week, and after what we know of the patriotic disposition of the majority in the other House. Now, sir, when these questions are settled, I want no man to have it in his power to go home and make just such speeches as the senator before me [Mr. Hale] has made in the Senate. I want no man to go home and endeavor to excite the people by using such language as this:

"Your petitions were treated with the utmost indignity. They were laid on the table, unread, unconsidered: and when I proposed to refer them to the committee to which all the subject-matters of the petitions were referred, and with which, therefore, they had a necessary connection, even that was opposed."

I am no great hand at making a stump speech, but I think I could take up that theme in such a way as to exasperate and excite the populace. I hope these petitions will be taken up and referred to the committee. I do not think there is any fear that they will recommend any mischievous plan. Whereas I do fear that the non-reference of these petitions would tarnish the prospect of a general amity, with satisfaction to the whole country. I am, therefore, in favor of the reference of these petitions to the committee.

ON GIVING LANDS FOR RAILROADS.

IN SENATE, APRIL 29, 1850.

[When the bill for setting apart a portion of the public lands for the Illinois Central Railroad was before the Senate, Mr. Clay made the following remarks.]

Mr. Clay. Mr. President, I rise to do nothing more than to express an opinion or two, and not to enter into the general discussion. I am very glad to learn that such a great measure of public justice as I deem it—as the distribution of the proceeds of the public lands—commends itself to the approbation of my friend from South Carolina [Mr. Butler], and that he now deems that an acceptable measure which—

Mr. Butler (interposing). Ah! I am sure that my friend from Kentucky will allow me to say that I was looking at alternatives; and, doing so, I had a right to say which of two events I would deprecate least, without being understood to desire either.

Mr. Clay. Well, sir, it is exceedingly agreeable to me to hear the honorable senator express an opinion—either with or without the modification he has now made—at all favorable to a great national measure of justice which would have redounded greatly to the benefit of posterity; and I can not but hope that his fear of the entire waste of the public lands will induce him, if some similar project is brought forward, to go for it.

Sir, with reference to the particular question before the Senate, I have arisen merely to say, in the first place, that I entertain no doubt about the general power, under proper guards and appropriate restrictions, to make the species of appropriations of the public lands which is here contemplated; and I hope to see a portion of that power extended to our lakes, and our rivers, and our harbors. I am ready, for one, to concur in any cautious, but liberal measures for the improvement of those lakes, and rivers, and harbors. The Ohio river—the greatest thoroughfare in this country, with the exception of the Mississippi—has depended almost for the possibility of navigating it upon the exercise of this same general power, which I believe the government possesses. I have no doubt, I can entertain no doubt, of the right of the general government, as one of the greatest—the very greatest—of landholding proprietors, to appropriate a portion of that land for the purpose of making the remainder more valuable and available.

A great deal has been said about the trusteeship of the government.

It is true that all government is a matter of trust. Individual men are trustees created by Providence, bound to administer their faculties to the best advantage, not merely for themselves but for their fellow-men. But if, by the use of the term trustee, it is proposed to qualify, limit, or restrain the trust so as to resemble the ordinary trusts that are created in the course of human transactions, I do not concur at all in that idea. The government is a trustee for the purpose of administering the affairs of the nation according to its best judgment for the good of the whole, and all the parts of the whole. With respect to the State of Illinois—and I believe the same is true to a considerable extent with reference to Mississippi and Alabama, but I happen to know something personally of the interior of the State of Illinois—that portion of the State through which this road will run is a succession of prairies, the principal of which is denominated the Grand Prairie. I do not recollect its exact extent, but it is, I believe, about three hundred miles in length, and but one hundred in breadth. Now, this road will pass directly through that Grand Prairie lengthwise, and there is nobody who knows any thing of that Grand Prairie, who does not know that the land in it is utterly worthless for any present purpose —not because it is not fertile, but for the want of wood, and water, and from the fact that it is inaccessible, wanting all facilities for reaching a market, or for transporting timber, so that nobody will go there and settle while it is so destitute of all the advantages of society, and the conveniences which arise from a social state. And now, by constructing this road through the prairie, through the center of the State of Illinois, you will bring millions of acres of land immediately into market, which will otherwise remain for years and years entirely unsalable.

Well, so with regard to Alabama and Mississippi: the road which is proposed will pass through what is called the pine barrens. The soil there, except in occasional spots, is entirely valueless, though it is covered with timber which is intrinsically very valuable, but now worthless, because it is unapproachable, and not available for the want of some means of transport to a market. Well, by running this road through those portions of Mississippi and Alabama, you will again bring into market an immense amount of lands, increasing their value to the benefit of the treasury of the United States.

Now, is it possible that the government, trustee, or whatever you may choose to call it—an intelligent being, at any rate—is not bound to manage the property belonging or intrusted to it in such a manner as shall, in its own judgment, redound most to the benefit of the whole country? And in promoting the good of the parts, you promote the good of the whole. Is there a man even in Georgia, Alabama, Mississippi, Tennessee, Kentucky, Illinois, or the adjoining States, who will not, in one way or another, avail himself of the advantages of such a road in the facilities for travel or transportation? It will furnish a continuous route from Chicago to Mobile. And Georgia has already her iron arms stretch-

ing out in the same direction, and will readily form junctions with the Alabama road.

The honorable senator from South Carolina [Mr. Butler] has anticipated some difficulty in relation to Tennessee and Kentucky. Why, sir, the project is to carry the road from Mobile to the mouth of the Ohio river, or to some place in that vicinity, perhaps to Columbus, a town a few miles below the mouth of the Ohio—thus making one grand line from Mobile to Chicago, or wherever the northern terminus may be, passing through Kentucky at that part of the State where it is extremely narrow; and I can not think there will be any difficulty under the provisions of this bill, either in that State or in Tennessee, on account of the want of public lands along the route. It is impossible, in the administration of the great interests of this country, to distribute the advantages of the administration equally among all the States. Take the collection of the revenue for example. In the city of New York alone, there are eight or nine hundred functionaries connected with that branch of the public service, from all whom that city derives an advantage in the expenditure of their salaries and their residence as citizens there, and from other incidental causes. If we were to insist upon the principle of a precisely equal distribution if the benefits arising from such sources, we should be obliged to have a corps of eight or nine hundred officers, stationed in every city throughout the country, with fixed salaries and with no duties to perform; and so of the other great interests of the country. But the custom-house at New York, and the corps of officers maintained at New York, are not intended for the benefit of New York. They are for the benefit of the whole country; and just so this road, proposed to be built in Illinois, although she will derive, doubtless, the largest and most immediate advantage from it. It is for the sake, in the first place, of the public lands, and for the sake of the commerce, and travel, and intercourse, between the people of this great republic, which, the more the facilities of intercommunication are augmented, becomes the more harmonious and homogeneous in all its parts.

Then, sir, I am in favor of these measures. I have not had it in my power to look into the bill with that care that I ought to have bestowed. I confess I have some hesitation, unless it is put under proper restriction, about going so far from the road on either side of it—a distance of six miles. To go away off where the making of the road will create no additional value to the land, is doubtful, especially unless it is placed under proper restrictions. But so many of these restrictions are provided that I can not entertain a doubt as to the exercise of this power—a power of this government by whatsoever name it may be called, of which I can have no doubt as to its right, or of the propriety of applying a portion of the public land in order to increase the value of the rest. These are my views and opinions. I do not intend to discuss these subjects now, for I have often discussed them heretofore; but I have thought it right to express these opinions thus briefly.

ON THE SEARCH FOR SIR JOHN FRANKLIN.

IN SENATE, MAY 1, 1850.

[It would, of course, be expected that this humane enterprise would enlist the sympathies of Mr. Clay, as illustrated in the following remarks.]

Mr. Clay. I think I feel myself authorized to say that the senator from Indiana will not make any further opposition, if it can be said to be opposition that he made before to this resolution. If it is to be passed, it seems to me that it should be passed immediately. In a very few days the vessels will take their departure, and therefore I hope the resolution will be taken up, and I shall be happy to find that it meets with general concurrence.

The motion was agreed to, and the resolution was considered, as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the president be and he is hereby authorized and directed to receive from Henry Grinnell, of the city of New York, the two vessels prepared by him for an expedition in search of Sir John Franklin and his companions, and to detail from the navy such commissioned and warrant officers and so many seamen as may be necessary for said expedition, and who may be willing to engage therein. The said officers and men shall be furnished with suitable rations, at the direction of the president, for a period not exceeding three years, and shall have the use of such necessary instruments as are now on hand and can be spared from the navy, to be accounted for or returned by the officers who shall receive the same.

"*Resolved further*, That the said vessels, officers, and men, shall be in all respects under the laws and regulations of the navy of the United States until their return, when the said vessels shall be delivered to the said Henry Grinnell: *Provided*, That the United States shall not be liable to any claim for compensation in case of the loss, damage, or deterioration of the said vessels, or either of them, from any cause or in any manner whatever, nor be liable to any demand for the use or risk of the said vessels, or either of them."

I beg leave to say a few words only in support of this resolution. The navigator whose fate has interested so large a portion of the world, went upon his perilous expedition not merely for the sake of his own country, or his own fame, but for the general good of mankind, and of the com-

mercial world of all mankind; and it does, therefore, seem to me peculiarly proper and expedient, that the interest which is taken in his fate should not be confined merely to the country from which he went, but that it should be co-extensive with Christendom, and all those parts of the world which could possibly be benefited, if he had succeeded in that expedition. I think, therefore, that upon that ground the resolution should be adopted. Although I accord in the expression of opinion urged against the union of a public and individual enterprise generally, yet, in a case of this kind, I should hope that would not be permitted to prevent the passage of this resolution. Indeed, it appears to me, that when any one of our merchants displays a spirit of enterprise and humanity, such as has been manifested on the part of the unpretending, modest, and highly worthy gentleman who has tendered these vessels to the government, it is very proper on the part of the government to encourage such efforts on the part of commercial men, all over the country, and sanction them, and aid in carrying them out. All that is asked for the accomplishment of this enterprise is, that government shall give the authority of its name to those commanding these ships, in order to preserve that subordination which may be essential to the success of the enterprise. I beg leave to add, that although I am among those who despair of the recovery of this lost navigator, it will be a matter of satisfaction to know, if possible, what his fate has been; and it may turn out, too, that in carrying out this enterprise, other discoveries may be made, which will benefit our country and the world. In consideration of the nature of the enterprise, and of the high character of this body, which, above all others in the whole world, should seize on every opportunity to aid in such a noble enterprise, I trust the Senate will not hesitate to give its sanction to it.

ON THE REPORT OF THE COMMITTEE OF THIRTEEN.

IN SENATE, MAY 13, 1850.

[THE special Committee of Thirteen, to consider Mr. Clay's and Mr. Bell's resolutions, and to report a bill or bills of compromise, was appointed April 19, 1850, and was composed as follows: Messrs. Cass, Dickinson, Bright, Webster, Phelps, Cooper, King, Mason, Downs, Mangum, Bell, and Berrien, Mr. Clay being chairman. On the 8th of May, Mr. Clay made his report, a notice of which, and some extracts, will be found in the third volume of this work.* On the 13th of May, he took up the report, explained it in detail, and endeavored to show why it should be adopted by the Senate. The following is the speech made on this occasion.]

MR. CLAY said: I have risen for the purpose of making some statements and an additional exposition relative to the report of the committee, of their proceedings, and of their action upon the important subjects before you. When the report of the committee was presented to the Senate, last week, various members of the committee rose, and stated that parts of that report had not met with their concurrence. Mr. President, it might have been stated with perfect truth that no one member of the committee concurred in all that was done, or omitted to be done. There was, however, a majority upon most of the subjects, indeed, upon all of the subjects, which have been reported by the committee to the Senate. Each senator, perhaps, if left to himself separately, would have presented the various matters which have been reported to the Senate in a different form from that in which they now present themselves. I was myself, upon one occasion, in a minority. I have not been discouraged, Mr. President, in the smallest degree, by the differences which existed, either in the committee, or which were manifested in the Senate when the report was presented. Gentlemen who did not agree exactly to what was done, will, no doubt, in the progress of the measure, endeavor to make it conformable to their wishes. If it should not be so modified, I indulge with confidence the hope that no one

* Pages 161 and 359.

of them is so irrevocably committed against the measure as to induce him, upon the question of its final passage, to vote against it. I am not authorized to say, and I do not mean to say, that there will be an affirmative vote of every member of the Senate who was upon the committee in favor of the measure upon the final passage of the bill; but I mean to say that I indulge a hope that, whether all the modifications which were desired by various members of the committee may or may not obtain, finally there will be not only a mere majority of the committee voting in favor of the measure—and I greatly hope they will vote for it unanimously—but I trust that it will leave this body with a large majority in its favor. I am not discouraged, I repeat, by any thing that has transpired in the committee, or in the Senate, or in the country, upon the subject of this measure. I have believed from the first, and I yet firmly believe, that if these unhappy subjects which have divided the country are to be accommodated by an amicable adjustment, it must be upon some such basis as that which the committee has reported; and can there be a doubt in the mind of any honorable senator on the subject? Sir, I believe that the crisis of the crisis has arrived; and the fate of measures which have been reported by the committee will, in my humble judgment, determine the fate of the harmony or continued distraction of this country. Entertaining this belief, I can not but indulge the hope that honorable senators, who, upon the first hearing of the report, might have seen some matters in it objectionable, according to their wishes and judgment, and that the entire Senate, after a full consideration of the plan, and after a fair contrast between it and all the other proposed plans, and all the other practicable plans for the adjustment of these questions—whatever expectations or hopes may have been announced elsewhere out of this body—will ultimately give it a general concurrence.

But, sir, I have risen, as I announced, more particularly for the purpose of entering into some further explanations of the course of the committee, and of throwing out some few observations in support of the measures which they have recommended to be adopted by the Senate. The first measure which they reported, Mr. President, was that of the true exposition of the compact between the United States and Texas upon the occasion of the admission of that State into the Union. Upon that subject, as has been already announced in the report, I am happy to say there was an undivided opinion. Two honorable senators, one of whom is now absent, and the other present, while they declared their concurrence in it of the true exposition of the compact, qualified that declaration by stating that they did not hold themselves, and did not intend to be understood as holding themselves, in all possible state of things and in every possible contingency, pledged to vote for the admission of States that might be carved out of Texas; they intended to preserve to themselves the right to determine, when any new State formed out of Texas should present itself, whether, under all the circumstances of the country, and all the circumstances under which the new State might present itself, it should or should not be ad-

mitted. While they made this reservation, both united most heartily in the true exposition of the compact between the United States and Texas, according to which, as you know, sir, a number of States not exceeding four, with or without slavery, having the requisite population, and with the consent of Texas, were to be admitted in the Union from time to time, as they might be matured and present themselves for admission. But I will not dwell longer upon that part of the subject.

I will now, Mr. President, approach that subject which in the committee and the two Houses of Congress has given most trouble, and created the most anxiety of all the measures upon which the committee have reported —I mean, the admission of California into the Union. Against this measure there are various objections. One of these objections is with respect to its population. It has been contended that it ought only to be admitted, if admitted at all, with one representative; that if admitted with two representatives, it will be a violation of the Constitution of the United States; and that there is not sufficient evidence before the Senate and the country that it has a population entitling them to one representative. I suppose, sir, that no one will contend—California and the other acquisitions from Mexico having been admitted into the Union only about two years ago; last February two years is the date of the treaty of Hidalgo—no one will suppose that that sort of evidence to entitle California to one or two representatives could be furnished by the decennial enumeration of the population of the United States. It is impossible, with respect to California, that any such evidence could be furnished—she having become a part of this empire eight years after the last census.

Now, sir, let me ask what was done on the first apportionment of representation among the several States of the Union? There was no federal enumeration of the people of the United States on which that apportionment was made. So many representatives were allotted to one State, so many to another, and so on, completing the number provided for by the Constitution of the United States. In that instance, the Congress, or rather the Convention that allotted those representatives to the various States, went upon all the information they possessed, whether it was perfectly authentic or not. It is known by those who are at all acquainted with the adjustment of the question of representation among the several States that the number of representatives allotted was larger than the actual population of the State would entitle them to in some instances. I may mention more particularly the case of Georgia. It is pretty well known that a larger number of representatives was allowed to her than the exact state of her population would authorize; but it was said, Georgia is a new State rapidly filling up; a strong current of emigration is pouring into her limits, and she will soon, perhaps even by the time her representatives take their seats upon the floor of the House, have the requisite population. In this way, upon information not obtained on federal authority, but upon information obtained by all the modes by which it could be procured, and

which was of a nature calculated to satisfy the judgment of the Convention, was the apportionment made by the Convention that framed the Constitution. So, sir, in the case of more recent acquisitions and annexations. That of Texas, for instance. Nobody believed, I think, at the time, that Texas had a population entitling her to two representatives, but as in the case of some of the old thirteen States, so in the case of Texas, she was rapidly filling up. It was known—as I have no doubt will turn out to be the case when the census comes to be taken in Texas—that before the next enumeration should take place she will have a population not only entitling her to two, but probably to more than two representatives.

Now, sir, there is an error existing, at least, I thought so from the remarks of one or two friends the other day, with regard to the requisite population to entitle California to two representatives. It is not, as is supposed, double the ratio which was fixed ten years ago by Congress. That ratio was fixed at 70,680, but it was expressly provided in the law establishing it that any State which had an excess beyond the moiety of the ratio established should be entitled to an additional representative. According to the provisions of that law, to entitle California to two representatives, she would only be required to have a population of 106,021, and not, as was supposed the other day, of one hundred and forty odd thousand. Well, now, the question is, putting out of view altogether the rapid augmentation which is daily taking place in the population of California, whether she has a population at this time—at the time when her members come to be admitted—which would entitle her to two representatives?

Mr. President, I have here what satisfies my mind, and I trust will also satisfy the minds of other senators. In the first place, I offer to the Senate an extract from a memorial of the senators and representatives from the State of California to the Congress of the United States. It is a document dealing in details and figures, and would take up some time to peruse the whole. That memorial has been before every senator, and can be resorted to by him; if he has not already examined it, he can examine it for himself. According to the details contained in that memorial—partly conjectural, it is true, but partly, and I believe the larger portion of them official—the population of California on the 1st of January, 1850, was 107,069, exceeding the amount of population requisite to entitle the State of California to two representatives. But that brings it down only to the 1st of January, 1850. Since that time we are authorized to add to the number above mentioned the arrivals by sea at the port of San Francisco, as shown by the official report of the harbor-master, from the 1st of January, 1850, to the 27th of March, 1850. Sir, without going into a classification, there are of Americans, 11,454, and of foreigners, 5,503, making a total from the 1st of January to the 27th of March, 1850, of 16,957. The number of desertions from ships, as stated in the memorial before alluded to, is 3,000, in round numbers. The official report of the harbor-

master, made on the 1st of March last to the Legislature, states that the "number of officers and seamen who have left their vessels, from various causes, is 14,240." An aggregate of all these statements will give us the population of California at different periods, and will show the following result: On the 1st of January, 1849, there were 26,000; of these 8,000 were Americans, 13,000 were Californians, and 5,000 were foreigners. On the 1st of January, 1850, there were 107,069; making a total number up to the 27th of March, 1850, of 124,026; add to this for deserting seamen 14,240, and you will have a total population up to the 1st of March, of 138,266; to which is to be added the population which has arrived from the United States and other places since the time mentioned. I have no earthly doubt—indeed I am perfectly satisfied in my own mind—that putting all these statements together, there is at this moment a population in California that would entitle her to two representatives, even supposing there had been no provision for the fraction exceeding the moiety of the ratio fixed upon by Congress.

Well, upon this question of population, I do not wish to take up the time of the Senate unnecessarily; but it will be said that they are fresh population. Sir, they are bone of our bone, and flesh of our flesh, for the greater part. They have lost none of their intelligence or capacity for self-government by passing from the United States to California. There are foreigners there, it is true; but by our treaty with Mexico, all the Californians who remained became citizens of the United States in one year, if they did not adopt the alternative of remaining Mexicans after the treaty of Hidalgo was signed. I remark, that the Constitution of the United States itself nowhere fixes any term of residence necessary to constitute an individual or person a portion of the people of the United States. The language of the Constitution, in the adjustment of the question of representation and taxation, is "the people" and "numbers." I think, then, that however long or short a time they have been there, as they ought to be represented somewhere—I mean those who have left the United States and gone there—there is little doubt that at this moment there is a number of citizens of the United States, sufficient to entitle California to two representatives. Well, sir, they are not now represented, and will not be represented in the United States. They ought to be represented somewhere; and having gone to California—it is said they have gone there only for temporary purposes, yet, Mr. President, they have gone to California; they are there; and the question of how many will return, or how many will remain there, it is impossible to tell. It is all right to move from place to place; and with regard to the State of Louisiana, I will state a fact, which will be recollected and confirmed by the honorable gentleman in my eye from that State, that thousands and thousands who went to New Orleans and Louisiana shortly after the acquisition of that territory by the treaty of Louisiana—and who, up to the present time, go there only for temporary purposes—intending to make a fortune and return home, never did return

home, but finding so delightful a climate, and finding themselves so happy when they got there, scarcely one in a hundred ever came back. So of California. I dare say that vast numbers are going there, some with the intention of returning, but, sir, after they are connected by marriage, and by social ties, and by the acquisition of wealth, and by all those ties which tend to fix in a permanent home this residence of the animal "man," they will relinquish this purpose of returning to the United States, and become permanent and fixed inhabitants of California. On the question of population, therefore, I think there is no ground—no serious ground—of rational objection to the number of representatives proposed—two representatives. This is precisely the same number as in the case of Texas.

Now, with regard to the limits of California. Mr. President, upon that subject an effort was made in the committee to extend a line through California at 36° 30′ of north latitude, and one member, not satisfied with that line, proposed 35° 30′. A majority of the committee, I believe, were in favor of that amendment; but, on the question being taken for the line of 35° 30′, a majority was found to be against it. Sir, it is not a little remarkable that this opposition to the line—this attempt to cut California in two by the line of 36° 30′, or 35° 30′, or by any other line—is a line not coming from the North at all, from whence we might suppose it would be proposed. For, with respect to the North, there can be no earthly doubt that if there were half a dozen States made out of California, they would be all what are called free States. The North, however, does not seek such a division. It is from the South that the opposition to acceding to the limits of California, as proposed in her State Constitution, comes. The South wants other States there, or another State there. Some gentlemen from the South, it is true, propose that there should be an express recognition of the right to carry slaves south of that line; but I believe that the major part of those who insist on the establishment of that line do not ask for the recognition or a positive enactment of the right to carry slaves south of that line; and I think that those who are acquainted with the country, or who have taken the pains to look over the map, will come to the conclusion of a friend of mine from the South (who, I believe, is now in my hearing), a large planter, who said to me the other day, "Mr. Clay, if Congress were to offer me five hundred dollars apiece for every slave I own, requiring me as a condition to take them to California, or to either of the new Territories, and there to keep them—if I could keep them—for ten years, I would not accede to the proposal." Now, suppose you take a line at 35° 30′ or 36° 30′ of north latitude, cutting California in two, what would become of her southern portion as a slave State? There would be the open sea on the one side ready for the escape of your slaves; there would be the free State of California on the other, and Mexico, with her boundless mountains, on the third. Who believes that, if you establish the line proposed, slavery would ever be carried there? Moreover, I have understood that all the delegation in the Convention—of course

all of them must, because the Convention was unanimous—the whole Convention—all south of the line of 35° 30′ as well as north of it—voted against the introduction of slavery. It can not, therefore, be, and I presume it is not, under any hope—if California should be curtailed in the manner proposed—that there will ever be slavery within her limits, or upon the Pacific at all. The fact, therefore, of the establishment of a new State or of new States out of the present limits of California, is merely to add to the objection which has been made by the South of the preponderance and influence of the North, and the apprehensions which they entertain from that preponderance and influence of northern power. If the North is satisfied, and if the thing is not very unreasonable in itself, it seems to me that there should not be any hesitation on the part of our southern friends in Congress in acceding to these limits.

But it is said that they are unreasonable. California has some six or seven hundred miles of coast on the Pacific ocean. It is said that it is too large. Sir, it is stated in the report that, with respect to all the southern portion of California, south, for example, of 36° 30′, shortly after you have left the coast, you encounter deserts of sand which never can be inhabited; and that after you have passed these deserts of sand you approach mountains, and then get involved in successive chains of mountains, till you reach a population in the midst of these mountains and beyond them, which have no intercourse at all with the Pacific, and whose intercourse is almost exclusively with Mexico, or with countries on the Atlantic ocean and on the Gulf of Mexico. So also when you go to the northern portion of California; there is a vast desert not known to have been passed, extending from the country occupied by the Mormons down to the Pacific ocean. Now, if you go there, how could you reach the coast of the Pacific through this impassable desert? There seems to me to be no adequate motive for the curtailment of the limits of the Pacific, with a view to the accommodation of future States; at least I judge not, from the amount of geographical knowledge which we at present possess of these territories.

But, Mr. President, it was said here the other day, with respect to California, that her case was different from that of the other new States which have been admitted into this Union. It is mentioned in the report that there are cases of States which have been admitted without the previous authority of Congress. And is it not so? My honorable friend from Alabama stated that in all the instances of States which have been admitted into the Union, they had served an apprenticeship of so many years; but, sir, the observation and statement in the report of the committee stands uncontradicted. Michigan, Arkansas, and Florida, if not other States, came in without any other act of Congress, according to the usage which prevailed in the early admission of States, authorizing them to hold a convention to frame a Constitution, and to come in with that Constitution. They laid off limits for themselves. They called a convention; they adopted a Constitution, and they came here and asked for admission. It was said that

they were under the government of the United States. So much the better for them; they had a good government; a territorial government. But how is it with California? She has no government. You have deserted her; you have abandoned her; you have violated your engagement contained in the treaty of Guadalupe Hidalgo, and left her to shift for herself as well as she could. In this state of abandonment she chose to form for herself a Constitution, and she has come here to ask for admission; and I ask again, as I had occasion to ask three months ago, whether she does not present herself with much stronger claims for admission than those States which had all the advantages of free governments, which have come here to be admitted into the Union? I think, then, Mr. President, that with respect to the population of California, with respect to the limits of California, and with respect to the circumstances under which she presents herself to Congress for admission as a State into the Union, all are favorable to grant her what she solicits, and we can find neither in the one nor in the other a sufficient motive to reject her, and to throw her back into the state of lawless confusion and disorder from which she has emerged.

Sir, with the committee I unite in saying on this occasion that all the considerations which call upon Congress to admit California as a State, and to sanction what she has done, and to give her the benefit of self-government, apply with equal force to the Territories of Utah and New Mexico.

Mr. President, allow me at this stage of the few observations which I propose to address to the Senate, to contrast the plans which have been presented for the settlement of these questions. One has come to us from a very high authority, recommending, as I understand it, the admission of California, and doing nothing more, leaving the question of the boundary unsettled between New Mexico and Texas, and leaving the people who inhabit Utah and New Mexico unprovided for by government. Mr. President, I will take occasion to say that I came to Washington with the most anxious desire—a desire which I still entertain—to co-operate in my legislative position in all cases in which I could conscientiously co-operate with the executive branch of the government. I need not add, however, sir, that I came here also with a settled purpose to follow the deliberate dictates of my own judgment, wherever that judgment might carry me. Sir, it is with great pleasure that I state that we do co-operate with the President of the United States to the extent which he recommends. He recommends the admission of California. The committee propose this. There the president's recommendation stops, and there we take up the subject, and proceed to act upon the other parts of the territory acquired from Mexico. Now, which of these two courses commends itself best to the judgment of those who are to act in the case? In the first place, if we do not provide governments for the other portions of the country acquired from Mexico, we fail to fulfill an obligation, a sacred obligation, contained in the treaty with Mexico. It is said that they will have a government of their own, a local government; that they have such a one now; but that they have not

such a one now as they had when they were part of Mexico. When they were a part of the republic of Mexico, with the common government of Mexico, stretching over all the parts constituting that republic, they had all the benefits resulting from their own local laws, and the additional benefit and security resulting from the laws of the supreme government covering all parts of the republic. We took the place of that supreme government. They were transferred from that sovereignty to this sovereignty; and we stipulated with the agents of their former sovereignty that we would extend to them protection to their persons, security to their property, and the benefit of pursuing their own religion according to the dictates of their own consciences. Now, sir, if you admit California and do nothing for Utah and New Mexico, nothing in relation to the settlement of the boundary question with Texas, I ask you in what condition, in what state will you leave those countries? There are the Mormons—a community of which I do not wish to say one word of disrespect, for I know very little about them; I have heard very opposite accounts of them; I believe that during this session my colleague before me had occasion to present some memorials to the Senate showing some very harsh if not oppressive and tyrannical treatment by the Mormons toward citizens of the United States who did not happen to compose a portion of their community—

Mr. Underwood. They were strangers, and were merely passing through their settlement.

Mr. Clay. My colleague says they were strangers, merely passing through their settlement. Well, of that people, of their capacity to govern, of the treatment which they would give other citizens of the United States who might settle among them, or pass through their country, not belonging to their community—upon all these matters—matters upon which senators from Missouri and Illinois are much more competent to afford information to the Senate than I am—I care not whether they are as bad as they are represented by their enemies, or as good as they are represented by their friends; they are a portion of the people whom we are bound by treaty as well as by other high obligations to govern; and I put it to you, is it right to say to the people of Utah, comprehending the Mormons, and to the people of New Mexico, deprived as they are of the benefit of the government they once had, the supreme authority of which resides at Mexico—is it right to say that we will leave them to themselves? It is said that they will "take care of themselves," and that "when they get ripe for State government—and when will they get ripe for State government?—after the lapse of many years, let them come forward and we will admit them as States." Sir, is that discharging our duty? I will go further with reference to the message in relation to California—which I am sorry it is my duty to contrast with the plan of the committee now under consideration—and say that I have no doubt that there were strong, or at least plausible reasons for the adoption of the recommendation contained in the message of the president, at the time it was sent to Congress, at the beginning of

the session. I have no doubt that it was apprehended at that time that it was impossible to pass any measures for providing governments for the Territories, without producing in Congress scenes of the most painful and unpleasant character. I have no doubt it was believed, as indeed was stated in the message, that the distraction would be greatly aggravated; that differences of opinion would be carried to extreme lengths, if, as the president believed at the time the message was sent in, any attempt should be made to extend the authority of the government over these Territories. But, sir, I am happy to be able to recognize, what all have seen, that since the commencement of the session a most gratifying change has taken place. The North, the glorious North, has come to the rescue of this Union of ours. She has displayed a disposition to abate in her demands.

The South, the glorious South—not less glorious than her neighbor section of the Union—has also come to the rescue. The minds of men have moderated; passion has given place to reason everywhere. Everywhere, in all parts of the Union, there is a demand—a demand, I trust, the force and effect of which will be felt in both Houses of Congress—for an amicable adjustment of those questions, for the relinquishment of those extreme opinions, whether entertained on the one side or on the other, and coming together once more as friends, as brethren, living in a common country and enjoying the benefits of freedom and happiness flowing from a common government.

Sir, I think if the president had at this time to make a recommendation to Congress, with all the lights that have been shed upon the subject since the commencement of the present session of Congress, nearly five months ago, he would not limit himself to a recommendation merely for the admission of California, leaving the Territories to shift for themselves as they could or might. He tells us in one of these messages (I forget whether in the one which was sent in December or January) that he had reason to believe that one of these Territories, at least, New Mexico, might possibly form a State government for herself, and might come here with an application for admission during the progress of the session. But we have no evidence that such an event is about to happen; and if it did, could New Mexico be admitted as a State? At all events, there has been such a change of circumstances from the period when the message was sent in down to the present time, that I can not but believe that the gentleman who now presides at the head of our public affairs, if he had had the benefit of all these lights, would have made the recommendation much more comprehensive, and much more general and healing in its character, than a simple recommendation for the admission of California, leaving all the other questions unsettled, and open to exasperate the feelings of opposing parties.

Sir, I have spoken of the abandoned condition of Utah and New Mexico, left without any authority of this government, acting locally to protect the citizens who come there to settle, or to protect those who are in transitu

through the country, without any authority connected with the supreme government here, or any means of communicating from time to time the state of things as they exist there. To abandon these countries, in the face of our obligations contained in the treaty of Hidalgo, and other high obligations by which we are bound—to abandon them thus would not, as it appears to me, be conformable to that duty which we are called upon to perform. Leave these territorial questions unsettled, and the door of agitation is left wide open—settle them, and it is closed, I hope, forever.

Well, then, there is the boundary question with Texas. Why, sir, at this very moment we learn through the public papers that Texas has sent her civil commissioners to Santa Fé, or into New Mexico for the purpose of bringing them under authority; and if you leave the Texas boundary question unsettled, and establish no government for Utah and New Mexico, I venture to say that, before we meet again next December, we shall hear of some civil commotion, perhaps the shedding of blood, in the contest between New Mexico and Texas with respect to the boundary; for, without meaning to express at this time, or at any time, any positive opinion on that question, we know that the people of Santa Fé are as much opposed to the government of Texas, and as much convinced that they do not belong to Texas, that they constitute no portion of the territory of Texas, as we know Texas to be earnest in asserting the contrary, and affirming her right to the country from the mouth of the Rio Grande to its uppermost source. Is it right, then, to leave these Territories unprovided for? Is it right to leave this important question of boundary between New Mexico and Texas unsettled? Is it right that it should be left unsettled to produce possibly the fearful consequences to which I have adverted?

Sir, on these questions I believe—though I do not recollect the exact state of the vote in committee—that there was no serious diversity of opinion. We all thought we should establish governments for them if we could; that, at any rate, we should make the attempt; and if we failed, after making the attempt, we should stand irreproachable for any voluntary abandonment or neglect of them on our part.

The next question which arose before the committee, after having agreed upon the proposal to be made to Texas for the settlement of the boundary between her and Mexico, was the question of the union of these three measures in one bill. And upon that subject, sir, the same diversity of opinion which had developed itself in the Senate displayed itself in the committee.

A senator, in his seat. What of the amount to be paid to Texas?

Mr. Clay. Ah; I am reminded that I have said nothing about the amount proposed to be given to Texas for the relinquishment of her title to the United States of the territory north of the proposed line. The committee, I hope with the approbation of the Senate, thought it best not to fill up that blank until the last moment, upon the final reading of the bill; that if it were inserted in the bill it would go out to the country, and might

lead to improper speculation in the stock markets; and that therefore it was better to leave it out until the final passage of the bill. When we arrive at that point, which I hope we shall do in a short time, I shall be most happy to propose the sum which has been thought of by the committee.

Sir, the committee recommend the union of these three measures. If the senator from Missouri will allow me the benefit of those two cannons pointed to this side of the House (alluding to two volumes of Hatsel), I will be much obliged to him. I believe the senator from Missouri has them on his table.

Mr. Benton. They are in the secretary's office.

Mr. Clay. The union of these three measures in one bill has been objected to, and has been already very much discussed in the Senate. Out of respect to the senator from Missouri and to the Senate, I feel myself called upon to give some answer to the argument which he addressed to the Senate some days ago to show that it was improper to connect them together. I must begin by stating what I understood to be parliamentary law in this country. It consists, in the first place, of the Constitution of the United States, and of the rules adopted by the two Houses of Congress; of the practice and precedents of Congress; and if you please, sir, Jefferson's Manual, which has been respected as authority, and used, I believe, in most of the deliberative bodies in this country. Now, sir, either the senator from Missouri or myself totally misunderstands what is meant by Hatsel in the use of the word "tacking." We have no such thing as tacking in the English sense of the term. Jefferson has no chapter in his Manual on this subject of tacking. Hatsel has. Tacking in England is this: by the Constitution of England—or, in other words, by the practice of England, which makes her Constitution—money bills, supply bills, bills of subsidy and aid of all kinds, are passed by the House of Commons, sent to the House of Lords, and the Lords are obliged to take them word for word without making any amendment whatever. They are sent in that shape to the crown, and the crown is obliged to take them without amendment at all. The practice of tacking in England is confined to money bills. Knowing that a money bill is obliged to be passed without any alteration or amendment in the Lords, the Commons in England frequently, when they have a public object or measure to carry out, tack that measure to a money bill, and send it to the House of Lords. They know that the overruling necessity of the aristocracy and of the crown is such that they must, for the sake of the money granted to them, agree to that clause favorable perhaps to liberty, or to something else that is tacked on to it. The process of tacking in England is therefore objected to by the crown and by the aristocracy always. It is favorable to the Commons. It was more practiced during the reign of the Stuarts than since. And according as the prevalence of the authority of the crown and the aristocracy, or of the public branch of the Legislature takes place, the practice of tacking is re-

sorted to. Hence the quotation read by the senator the other day from Chancellor Finch. The king always, and the lords always complain of it. Hatsel, in the very loose and very unsatisfactory work of his which I have often had occasion to refer to, complains of it; but the fact is, the process of tacking in England is favorable to liberty; it is favorable to the Commons of England. It is less objected to by them, but it is always objected to by the crown and the aristocracy. Her majesty would be glad to get the money without being obliged to make any concessions to her subjects; and the House of Lords would be equally disposed with her majesty to think it very wrong to be compelled to swallow the whole. They would be willing to take the money, but they would have to take along with it the clause which has been tacked on in favor of personal liberty or of some rights of the subjects. Sir, I had intended to go into the details of this subject, by way of answer to the honorable senator; but, really, I think it hardly necessary. You find in the third volume of Hatsel that he has a chapter on the subject of bills tacked to bills of supply. I repeat, sir, that we have no such thing as that tacking process in this country. And why? Because, although tax bills and other money bills originate in the House of Representatives, and by the Constitution are required to originate there, the Senate has a right to amend, to strike out any clause, to reduce the tax, or to make any additions or amendment which they please. The Senate is under no such restraint as is the House of Lords in England. Hence we have no such thing as tacking in the English parliamentary sense of the term. But tacking, even in England, was not restrained by the incongruity of the measures tacked together. Now, sir, the question is, whether there is any incongruity in these measures; a bill for the admission of California; a bill establishing a territorial government in Utah; a bill establishing a territorial government for New Mexico; and, what is indispensable, if we give her a government, a bill providing what shall be her boundary, provided Texas shall accede to the liberal proposal made to her. Is there any thing, I ask, incongruous in all this? Where is it? What is the incongruity? What is the indignity? for I have heard, time after time, that it is undignified, or that it is ill-treating California to attach her to those portions of territory acquired from Mexico, included in Utah and New Mexico. What is the indignity? I admit that in general, for the sake of simplicity of business, it is better not to make any one bill complex, or even to embrace too great a variety of subjects of a congruous nature. But that rests in the sound discretion of Congress. It rests in the pleasure of Congress. Sir, it has been said that California has set us a very good example, by providing by her Constitution that no two subjects are to be united in the same bill. Louisiana has done the same thing in her Constitution. Ask the senator from Louisiana, or ask an honorable member of that Legislature, who has just arrived here from Baton Rouge, and they will tell you to what vast inconvenience legislative action is exposed in consequence of constitutional restriction. What are incongruous sub-

jects, what are distinct subjects, is a matter not always absolutely certain. If any thing which is thought incongruous is incorporated in a bill in that Legislature, it is sent to the judiciary, and if the judiciary thinks the subjects are incongruous, the law can not be constitutional, because, in the opinion of the judges, it was in violation of the Constitution, which declared that the Legislature should pass only a single subject in one bill. I have been told, and the senator from Louisiana can state whether I have been correctly informed or not, that in two or three instances laws which have been passed by the Legislature of Louisiana have been declared unconstitutional, in consequence of this constitutional restriction upon legislative action, and the courts would not enforce them.

I have stated what I think ought to satisfy every body, without dwelling upon it further. Now, sir, I will show you what has been done by Congress from time to time in the annexation of different subjects in the same bill. Here, sir, is volume second, page 396, chapter five, of The United States Statutes at Large, in which I find "an act to regulate and fix compensation for clerks, and to authorize the laying out of public roads, and for other purposes." The very title shows the incongruity of the subjects treated of. You will find in volume four, page 125, chapter 83, "an act to extend the time for the settlement of private land claims in the Territory of Florida, to provide for the preservation of the public archives in said Territory, and for the relief of John Johnson." [Laughter.] Here the name of the individual came last, but I have a case before me in which the individual came first. It is to be found in the Statutes at Large, private acts, volume six, page 813, chapter 99, entitled "an act for the relief of Chastelain and Pouvet, and for other purposes." And what do you suppose those other purposes to have been? About fifty appropriations such as ordinarily arise in the administration of government. Will my friend read the extract for me?

Mr. Underwood accordingly read the extract as follows:

An act for the relief of Chastelain and Pouvet, and for other purposes.

Be it enacted, &c., That the collector of the port of New York is hereby authorized to deduct from the amount of a bond given by Chastelain and Pouvet, for duties on merchandise imported in the schooner *General Jackson*, Hawes, master, from Nuevitas, in the island of Cuba, such duties as may have been charged on that portion of said merchandise which was not landed in the United States, having been destroyed by fire in the harbor of New York, upon their producing proof to the collector of New York of the destruction of said merchandise.

And be it further enacted, That the following sums to pay the balance of accounts for which no appropriations now exist, and which have been passed upon and allowed by the proper accounting officers of the government, or are now before them for audit, and for the payment of which appropriations are recommended by the heads of the proper departments, be, and the same are appropriated, viz.: For an award made by the proper accounting officer of the treasury in favor of the owners of the steamboats *Stasca* and *Dayton*, for services ren-

dered under an agreement with Major Charles Thomas, quarter-master, for the transportation of supplies, laborers, and other things for the use of the works at Fort Smith, Arkansas, in the year 1838, $13,350. For payment of a balance due for supplies furnished to the Creek Indians, and medical services rendered to those Indians, after the commencement of the disturbances in the Creek country, and before and during the removal of the said Indians west of the Mississippi, which accounts were incurred under the direction of the proper officers or agents of the government, $7,741 44. For the payment of the expenses of a division of the lands of the Brothertown Indians among the members of the tribe, in obedience to the act of Congress of the 3d of March, 1839, entitled "an act for the relief of the Brothertown Indians in the Territory of Wisconsin," the duties having been performed and the accounts presented, $1,830.

MR. CLAY. There are a great many others.

MR. BENTON. What is the date of that act?

MR. CLAY. It was approved July 1st, 1840; but I have one of a later date if the honorable senator will prefer it. Here is one in 1849, entitled "an act for the relief of James Norris, and for other purposes."

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Navy be, and he is hereby directed, to place the name of James Norris, of Sandwich, in the State of New Hampshire, on the roll of invalid pensioners, and pay him a pension at such rate per year as is provided by law for the total disability of an assistant surgeon in the navy of the United States, to commence on the 1st day of July, A. D. 1848, and continue during his natural life.

"SEC. 2. *And be it further enacted*, That there be, and hereby are, appropriated, out of any money in the treasury not otherwise appropriated, the following sums, for the government of the Territory of Minnesota:

"For salaries of governor, three judges, and secretary, nine thousand dollars.

"For contingent expenses of said Territory, three hundred and fifty dollars.

"For compensation and mileage of members of the Legislative Assembly, pay of the officers and attendants, printing, stationery, fuel, and other incidental expenses, thirteen thousand seven hundred dollars.

"Approved March 3d, 1849."

I never knew that our young sister Minnesota thought her dignity at all affected or offended by this association with James Norris. [Laughter.] There was a civil and diplomatic bill under consideration the last session. The senator's recollection will assist me if it were not last session. To that bill the senator from Missouri (Mr. Benton) moved to add an amendment to pay certain expenses incurred in the conquest of California. At the second session of the 30th Congress the bill "making appropriations for the civil and diplomatic expenses of the government for the year ending June 30th, 1850, and for other purposes," being under consideration in the Senate, Mr. Walker proposed an amendment, the object of which was to provide a government for the territory recently acquired from Mexico, in-

cluding California, which was adopted: yeas 29, nays 27. At the same session, the same bill being under consideration, Mr. Walker, for the first time, proposed the amendment quoted above as agreed to. Mr. Bell proposed an amendment to the amendment of Mr. Walker, which was disagreed to: yeas 4, nays 39. (Senate Journal, second session, 30th Congress, pp. 241–243.)

I shall next notice an act making appropriations for the civil and diplomatic expenses of the government for the year 1842. It will be found in the fifth volume of the Statutes at Large, page 476, chapter 29. To that act is annexed a proviso, limiting the compensation which should be received for printing the laws and documents of Congress. The next subject I shall notice is an act to provide for the support of the Military Academy of the United States for the year 1838, and for other purposes. It will be found in volume fifth of the Statutes at Large, page 264, chapter 169. These are only some out of a multitude of the same kind that might have been produced of the passage of such laws, from time to time, founded upon the discretion and good sense of Congress, embracing subjects of every variety and incongruity. And yet, upon a bill, which proposes to unite three subjects perfectly compatible in their nature, without the slightest incongruity existing between them—subjects which, at the last session, were proposed to be united together by the honorable senator from Wisconsin, in his proposal for the adjustment of these unpleasant questions, it is all at once discovered that the powers of government are paralyzed; that it is "tacking"—a word which has not yet been imported from England in her parliamentary law—it is all at once discovered that it is "tacking," a most dangerous and undignified course, which ought not to be sanctioned.

I mentioned, sir, awhile ago, acts which embraced every possible variety of legislation. I referred to an act providing for the support of the Military Academy of the United States for the year 1838, and for other purposes. That act makes thirty or forty appropriations for different objects. It makes an appropriation for the documentary history of the Revolution, for continuing the construction of the patent office, for furnishing machinery and other expenses incident to the outfit of the branch mints at New Orleans, Charlotte, Dahlonega, for the salaries of the governor, chief judge, associate justices, district attorney, marshal, and pay and mileage of the members of the Legislative Assembly of the Territory of Iowa, the expense there of taking the census, and for other incidental and contingent expenses of that Territory, and in relation to the investment in State stock of the bequest of the late James Smithson, of London, for the purpose of founding at Washington, in this District, an institution we denominate the Smithsonian Institution. These and various other acts are all comprehended in a bill making an appropriation for the Military Academy at West Point.

Now, sir, after this, can it be said that there is any want of power, or any nonconformity to the practice of Congress, in endeavoring to unite

together, not three incongruous and discordant measures, but three measures of the same character, having, in a different form, the same general object.

I will pass on, with a single observation on an amendment introduced by the committee into the territorial bill. To that amendment I was opposed, but it was carried in the committee. It is an amendment which is to be found in the tenth section of one of the bills limiting the power of the territorial Legislature upon the subject of laws which it may pass. Among other limitations, it declares "that the territorial Legislature shall have no power to pass any law in respect to African slavery." I did not then, and do not now attach much importance to the amendment, which was proposed by an honorable senator, now in my eye, and carried by a majority of the committee. The effect of that clause will at once be understood by the Senate. It speaks of "African" slavery. The word African was introduced so as to leave the territorial government at liberty to legislate as it might think proper on any other condition of slavery—"Peon" or "Indian" slavery, which has so long existed under the Spanish regime. The object was to impose a restriction upon them as to the passage of any law either to admit or exclude African slavery, or of any law restricting it. The effect of that amendment will at once be seen. If the territorial Legislature can pass no law with respect to African slavery, the state of the law as it exists now in the Territories of Utah and New Mexico will continue to exist until the people form a Constitution for themselves, when they can settle the question of slavery as they please. They will not be allowed to admit or exclude it. They will be restrained on the one hand from its admission, and on the other from its exclusion. Sir, I shall not enlarge on the opinion which I have already announced to the Senate as being held by me on this subject. My opinion is, that the law of Mexico, in all the variety of forms in which legislation can take place—that is to say, by the edict of a dictator, by the Constitution of the people of Mexico, by the act of the legislative authority of Mexico—by all these modes of legislation, slavery has been abolished there. I am aware that some other senators entertain a different opinion; but without going into a discussion of that question, which I think altogether unnecessary, I feel authorized to say that the opinion of a vast majority of the people of the United States, of a vast majority of the jurists of the United States, is in coincidence with that which I entertain; that is to say, that at this moment, by law and in fact, there is no slavery there, unless it is possible that some gentleman from the slave States in passing through that Territory may have taken along their body slaves. In point of fact and in point of law, I entertain the opinions which I expressed at an early period of the session. Sir, we have heard since, from authority entitled to the highest respect, from no less authority than that of the delegate from New Mexico, that labor can be there obtained at the rate of three or four dollars per month; and, if it can be got at that rate, can any body suppose that any owner of slaves

would ever carry them to that country, where he could get only three or four dollars per month for them?

I believe, on this part of the subject, I have said every thing that is necessary for me to say; but there remain two or three subjects upon which I wish to say a few words before I close what I have to offer for the consideration of the Senate.

The next subject upon which the committee acted was that of fugitive slaves. The committee have proposed two amendments to be offered to the bill introduced by the senator from Virginia (Mr. Mason), whenever that bill is taken up. The first of these amendments provides that the owner of a fugitive slave, when leaving his own State, and whenever it is practicable—for sometimes in the hot pursuit of an immediate runaway, it may not be in the power of the master to wait to get such record, and he will always do it if it is possible—shall carry with him a record from the State from which the fugitive has fled; which record shall contain an adjudication of two facts, first, the fact of slavery, and secondly the fact of an elopement; and, in the third place, such a general description of the slave as the court shall be enabled to give upon such testimony as shall be brought before it. It also provides that this record, taken from the county court, or from the court record in the slaveholding State, shall be carried to the free State, and shall be there held to be competent and sufficient evidence of the facts which it avows. Now, sir, I heard objection made to this, that it would be an inconvenience and an expense to the slaveholder. I think the expense will be very trifling compared to the great advantages which will result. The expense will only be two or three dollars for the seal of the court, and the certificate and attestation of the clerk, etc. Sir, we know the just reverence and respect in which records are ever held. The slaveholder himself will feel, when he goes from Virginia to Ohio with this record, that he has got a security which he never possessed before for the recovery of his property. And when the attestation of the clerk, under the seal of the court, is exhibited to the citizen of Ohio, that citizen will be disposed to respect, and bound to respect, under the laws of the United States, a record thus exhibited coming from a sister State. The inconvenience will be very slight, very inconsiderable, compared with the great security of the slaveholder,

Mr. Butler. As the bill to which the senator refers has been somewhat under my care, I am sure the honorable senator will allow me to ask a question in relation to this amendment. Is it proposed that the certificate shall be from the judge or shall be from the court, as it is termed? because I see it seems to be inferred that it must be given by a court, and a court of record, which has a technical meaning. I desire the honorable senator to inform me whether it is thus to be given by a court or by a judge at chambers?

Mr. Clay. Mr. President, I confess I had in view the county courts and courts of probate which prevail throughout the United States, and not

the judge. But it can be so modified, if it be deemed essential in the progress of the bill.

The committee partake of the same spirit which I have endeavored to manifest throughout this whole distracted question. They are not wedded to any particular plan; and if any amendments are offered that will improve and better the bills reported, they will be accepted. I am sure that I answer for every member of the committee, with pleasure, that any amendments to aid the object we have in view will be accepted. I repeat, sir, I confess I had in view that this record should be taken from the county courts, which prevail in almost all the States except Louisiana and South Carolina, which have their parish courts. Any one of these courts, after hearing evidence about the ownership of property and the escape of the property, could give the required record, and this would be carried to that part of the country where the parties go.

With respect to the other amendment offered by the committee to the fugitive bill, I regretted extremely to hear the senator from Arkansas object so earnestly and so seriously to it. I do not pretend to question his right, or the right of any other senator, but he will surely allow me to say, in all kindness, that of all the States of this Union, without exception, I will not except even Virginia herself, I believe that the State which suffers more than any other by the escaping of slaves from their owners, seeking refuge in Canada, or in some of the non-slaveholding States, Kentucky is the one. I doubt very much whether the State of Arkansas ever lost a slave. They may, very possibly, once in a while, run off to the Indians, but very rarely. So of other interior States, such as Georgia and South Carolina. Sometimes, perhaps a slave escapes from their seaports, but very rarely by land. Kentucky is the most suffering State, but I venture to anticipate for my own State that she will be satisfied with the provisions to which I am now about to call the attention of the Senate.

Mr. President, in all subjects of this kind we must deal fairly and honestly by all. We must recollect that there are feelings, and interests, and sympathies on both sides of the question, and no man who has ever brought his mind seriously to the consideration of a suitable measure for the recapture of runaway slaves, can fail to admit that the question is surrounded with great difficulties. On the one hand, if the owner of the slave could go into the non-slaveholding States, and seize his negro, put his hands upon him, and the whole world would recognize the truth of his ownership of property, and the fact of the escape of that property, there would be no difficulty then in those States where prejudices against slavery exist in the highest degree. But he goes to a State which does not recognize slavery. Recollect how different the state of fact is now from what it was in 1793, nearly sixty years ago, when the fugitive law passed. There were, then, comparatively few free persons of color—few, compared to the numbers which exist at present. By the progress of emancipation in the slaveholding States, and the multiplication of them by natural causes, vast numbers of

them have rushed to the free States. There are in the cities of Philadelphia, New York, and Boston—I have not looked into the precise number—some eight or ten to one in proportion to the number there were in 1793, when the act passed.

In proportion to the number of free blacks, multiplied in the free States, does the difficulty increase of recovering a fugitive from a slaveholding State. Recollect, Mr. President, that the rule of law is reversed in the two classes of States. In the slaveholding States the rule is, that color implies slavery, and the *onus probandi* of freedom is thrown on the persons claiming it, as every person in the slaveholding States is regarded *prima facie* as a slave. On the contrary, when you go to the non-slaveholding States, color implies freedom, and not slavery. The *onus* is shifted, and the fact of slavery must be proved. Every man who is seen in the free States, though he be a man of color, is regarded as free. And when a stranger from Virginia or Kentucky goes to a remote part of Pennsylvania and sees a black person, who perhaps has been living there for years, and claims him to be his slave, the feelings and sympathy of the neighborhood are naturally and necessarily excited in favor of the colored person. We all respect these feelings where they are honestly entertained. Well, sir, what are you to do in a case of that kind? You will give every satisfaction that can be given that the person whom you propose to arrest is your property, and is a fugitive from from your service or labor. That is the extent of one amendment which we propose to offer; but there is also another. The amendment upon which I have been commenting, provides for the production of a record. Now, what is the practical inconvenience of that? The other amendment provides, that when the owner of a slave shall arrest his property in a non-slaveholding State, and shall take him before the proper functionary to obtain a certificate to authorize the return of that property to the State from which he fled, if he declares to that functionary at the time that he is a free man and not a slave, what does the provision require the officer to do? Why, to take a bond from the agent or owner, without surety, that he will carry the black person back to the county of the State from which he fled; and that at the first court which may sit after his return, he shall be carried there, if he again assert the right to his freedom; the court shall afford, and the owner shall afford to him all the facilities which are requisite to enable him to establish his right to freedom. Now, no surety is even required of the master. The committee thought, and in that I believe they all concurred, that it would be wrong to demand of a stranger, hundreds of miles from home, surety to take back the slave to the State from which he fled. The trial by jury is what is demanded by the non-slaveholding States. Well, we put the party claimed to be a fugitive, back to the State from which he fled, and give him trial by jury in that State.

Well, sir, ought we not to make this concession? It is but very little inconvenience. I will tell you, sir, what will be the practical operation.

It will be this: When a slave has escaped from the master and taken refuge in a free State, and that master comes to recapture him and take him back to the State from which he fled, the slave will cry out, "I do not know the man; I never saw him in my life; I am a free man." He will say any thing and do any thing to preserve to himself that freedom of which he is for a moment in possession. He will assert most confidently before the judge that he is a free man. But take him back to the State from which he fled, to his comrades, and he will state the truth, and disavow all claim to freedom. The practical operation, therefore, of the amendment which we have proposed, will be attended with not the least earthly inconvenience to the party claiming the fugitive. The case is bond without surety. That bond is transmitted by the officer taking it to the district attorney of the State from which he has fled. That officer sees that the bond is faithfully fulfilled, and that the slave is taken before the court. Perhaps, before the slave reaches home, he will acknowledge that he is a slave; there is an end of the bond and an end of the trouble about the matter. Is this unreasonable? Is it not a proper and rational concession to the prejudices, if you please, which exist in the non-slaveholding States? Sir, our rights are to be asserted; our rights are to be maintained. But they ought to be asserted and maintained in a manner not to wound unnecessarily the sensibilities of others. And in requiring such a bond as this amendment proposes to exact from the owner, I do not think there is the slightest inconvenience imposed upon him, of which he ought to complain.

Sir, there is one opinion prevailing—I hope not extensively—in some of the non-slaveholding States, which nothing we can do will conciliate. I allude to that opinion that asserts that there is a higher law—a divine law—a natural law—which entitles a man, under whose roof a runaway has come, to give him assistance, and succor, and hospitality. Where is the difference between receiving and harboring a known fugitive slave, and going to the plantation of his master and stealing him away? A divine law, a natural law! And who are they that venture to tell us what is divine and what is natural law? Where are their credentials of prophecy? Why, sir, we are told that the other day, at a meeting of some of these people at New York, Moses and all the prophets were rejected, and that the name even of our blessed Saviour was treated with blasphemy and contempt by these propagators of a divine law, of a natural law, which they have discovered, above all human laws and constitutions. If Moses and the prophets, and our Saviour and all others, are to be rejected, will they condescend to show us their authority for propagating this new law, this new divine law of which they speak? The law of nature, sir! Look at t as it is promulgated, and even admitted or threatened to be enforced, in some quarters of the world. Well, sir, some of these people have discovered another plausible law of nature. There is a large class who say that if a man has acquired, no matter whether by his own exertions or by in-

heritance, a vast estate, much more than is necessary for the subsistence of himself and family, I, who am starving, am entitled by a law of nature to have a portion of these accumulated goods to save me from the death which threatens me. Here are you, with your barns full, with your warehouses full of goods, collected from all quarters of the globe; your kitchens, and laundries, and pantries all full of that which conduces to the subsistence and comfort of man; and here am I standing by, as Lazarus at the gate of the rich man, perishing from hunger—will not the law of nature allow me to take enough of your superabundance to save me a little while from that death which is inevitable without I do it? Another modern law of nature is that the possession of more land than you can cultivate, is a forbidden monopoly; and that the parchment from heaven supersedes the parchment from government! Wild, reckless, and abominable theories, which strike at the foundation of all property, and threaten to crush in ruins the fabric of civilized society. Why, sir, trace this pretended law of nature, about which, seriously, none of the philosophers are agreed, and apply it to one of the most interesting and solemn ceremonies of life. Go to a Mohammedan country, and the Mohammedan will tell you that you are entitled to as many wives as you can get. Come next to a Christian country, and you will be told that you are entitled to but one. Go to our friends the Shakers, and they will tell you that you are entitled to none. But there are persons in this age of enlightenment, and progress, and civilization, who will rise up in public assemblages, and, denouncing the church and all that is sacred that belongs to it—denouncing the founders of the religion which we all profess and revere—will tell you that, notwithstanding the solemn oath which they have taken, by kissing the sacred book, to carry out into full effect all the provisions of the Constitution of our country, there is a law of their God—a divine law, which they have found out, and nobody else has—superior and paramount to all human law; and that they do not mean to obey this human law, but the divine law, of which, by some inspiration, by some means undisclosed, they have obtained a knowledge. That is the class of persons which we do not propose to conciliate by any amendment, by any concession which we can make.

But the committee, in considering this delicate subject, and looking at the feelings and interests on both sides of the question, thought it best to offer these two provisions—that which requires the production of a record in the non-slaveholding States, and that which requires a bond to grant to the real claimant of his freedom a trial by jury, in the place where that trial ought to take place, according to a just interpretation of the Constitution of the United States, if it take place anywhere. Therefore, in order to obviate the difficulties which have been presented, and to satisfy the prejudices in the non-slaveholding States, we propose to give the fugitive the right of trial by jury in the State from which he fled. The statement in the report of the committee is perfectly true, that the greatest facilities are always extended to every man of color in the slaveholding States who

sues for freedom. I have never known an instance of a failure on the part of a person thus suing to procure a judgment and verdict in his favor, if there were even slight grounds in support of his claim. And, sir, so far is the sympathy in behalf of a person suing for his freedom carried, that few members of the bar appear against them. I will mention—though with no boastful spirit—that I myself never appeared but once in my life against a person suing for his freedom, but have appeared for them in many instances, without charging them a solitary cent. That, I believe, is the general course of the liberal and eminent portion of the bar throughout the country. One case I made an exception; but it was a case where I appeared for a particular friend. I told him, "Sir, I will not appear against your negroes unless I am perfectly satisfied that they have no right to freedom: and even if I shall become, after the progress of the trial, convinced that they are entitled to freedom, I shall abandon your cause." I venture to say, then, that in all that relates to tenderness and treatment to that portion of our population, and to the administration of justice to them, and the supply of their wants, nothing can be found in the slaveholding States that is not honorable and creditable to them.

Mr. President, the only measure remaining, upon which I shall say a word now, is the abolition of the slave-trade in the District of Columbia. There is, I believe, precious little of it. I believe the first man in my life that I ever heard denounce that trade was a southern man—John Randolph, of Roanoke. I believe there has been no time within the last forty years, when, if earnestly pressed upon Congress, there would not have been found a majority—perhaps a majority from the slaveholding States themselves—in favor of the abolition of the slave-trade in this District. The bill which the committee has reported is founded upon the law of Maryland, as it existed when this District was set apart and ceded to the United States. Maryland has since very often changed her laws. What is their exact condition at present I am not aware. I have heard that she has made a change at the last session, and I am told that they may again be changed in the course of a year or two. Sir, some years ago it would have been thought a great concession to the feelings and wishes of the North to abolish this slave-trade. Now, I have seen some of the rabid abolition papers denounce it as amounting to nothing. It is nothing that slavery is interdicted in California. They do not care for all that. And will my friends—some of my friends on the other side of the House—allow me to say a word or two with respect to their course in relation to this measure? At the beginning of this session, as you know, that offensive proviso, called the "Wilmot proviso," was what was the most apprehended, and what all the slaveholding States were most desirous to get rid of. Well, sir, by the operation of causes upon the northern mind friendly to the Union, hopes are inspired, which I trust will not be frustrated in the progress of this measure, that the North, or at least a sufficient portion of the North, are now willing to dispense with the proviso. When, the other

day, on the coming in of the report of these measures, it was objected, by way of reproach, that they were simply carrying out my own plan, my honorable friend from North Carolina at the moment justly pointed out the essential differences between the plan, as contained in the resolutions offered by me, and that now presented by the committee. At the time I offered those resolutions, knowing what consequences, and, as I sometimes feared, fatal consequences might result from the fact of the North insisting on that proviso, by way of compensation, in one of the resolutions which I offered—the second one—I stated two truths, one of law and one of fact, which I thought ought to satisfy the North that it ought no longer to insist on the Wilmot proviso. Those truths were not incorporated in the bill reported by the committee, but they exist, nevertheless, as truths. I believe them both now as much as I did in February last. I know there are others who do not concur with me in opinion. Every senator must decide for himself, as the country will decide for itself, when the question comes to be considered. Well, when our southern friends found they were rid of the proviso, they were highly satisfied, and I shared with them in their satisfaction. If I am not much mistaken, a great majority of them would have said, "If, Mr. Clay, you had not put those two obnoxious truths in them, we should have been satisfied with your series of resolutions." Well, sir, we have got rid of the Wilmot proviso; we have got rid of the enactment into laws of the two truths to which I refer; but I fear there are some of our southern brethren who are not yet satisfied. There are some who say that there is yet the Wilmot proviso, under another form, lurking in the laws of Mexico, or lurking in the mountains of Mexico, in that natural fact to which my honorable friend from Massachusetts adverted, as I myself did when I hinted that the law of nature was adverse to the introduction of slavery there. Now, as you find in the progress of events that all is obtained which was desired or expected three months ago, there is something further, there are other difficulties in the way of the adjustment of these unhappy subjects of difference, and of obtaining that which is most to be desired—the cementing of the bonds of the Union.

Mr. President, I do not despair, I will not despair, that the measure will be carried. And I would almost stake my existence, if I dared, that if these measures which have been reported by the committee of thirteen were submitted to the people of the United States to-morrow, and their vote were taken upon them, there would be nine-tenths of them in favor of the pacification which is embodied in that report.

Mr. President, what have we been looking at? What are we looking at? The "proviso"—an abstraction always—thrust upon the South by the North against all the necessities of the case, against all the warnings which the North ought to have listened to coming from the South; pressed unnecessarily for any northern object; opposed, I admit, by the South with a degree of earnestness uncalled for, I think, by the nature of the provision, but with a degree of earnestness natural to the South, and which the North

itself perhaps would have displayed if a reversal of the conditions of the two sections of the Union could have taken place. Why do you of the North press it? You say because it is in obedience to certain sentiments in behalf of human freedom and human rights which you entertain. You are likely to accomplish those objects at once by the progress of events, without pressing this obnoxious measure. You may retort, why is it opposed at the South? It is opposed at the South because the South feels that, when once legislation on the subject of slavery begins, there is no seeing where it is to end. Begin it in the District of Columbia; begin it in the Territories of Utah, and New Mexico, and California; assert your power there to-day, and in spite of all the protestations—and you are not wanting in making protestations—that you have no purpose of extending it to the southern States, what security can you give them that a new sect will not arise with a new version of the Constitution, or with something above or below the Constitution, which shall authorize them to carry their notions into the bosoms of the slaveholding States, and endeavor to emancipate from bondage all the slaves there? Sir, the South has felt that her security lies in denying at the threshold your right to touch the subject of slavery. She said, "Begin, and who can tell where you will end; let one generation begin and assert the doctrine for the moment, forbearing as they may be in order to secure their present objects, their successors may arise with new notions, and new principles, and new expositions of the Constitution and laws of nature, and carry those notions and new principles into the bosom of the slaveholding States." The cases, then, gentlemen of the North and gentlemen of the South, do not stand upon an equal footing. When you, on the one hand, unnecessarily press an offensive and alarming measure on the South, the South repels it from the highest of all human motives of action, the security of property and life, and of every thing else interesting and valuable in life.

Mr. President, after we have got rid, as I had hoped of all these troubles —after this Wilmot proviso had disappeared, as I trust it may, both in this and the other end of the capitol—after we have been disputing two or three years or more, on the one hand about a mere abstraction, and on the other, if it were fraught with evil, not so much present as distant and future, when we are arriving at a conclusion, what are the new difficulties that spring up around us? Matters of form. The purest question of form that was ever presented to the mind of man—whether we shall combine in one united bill three measures, all of which are necessary and homogeneous, or separate them in three distinct bills passing each in its turn if it can be done.

Mr. President, I trust that the feelings of attachment to the Union, of love for its past glory, of anticipation of its future benefits and happiness; a fraternal feeling which ought to be common throughout all parts of the country; the desire to live together in peace and harmony, to prosper as we have prospered heretofore, to hold up to the civilized world the example

of one great and glorious republic fulfilling the high destiny that belongs to it, demonstrating beyond all doubt man's capacity for self-government; these motives and these considerations will, I confidently hope and fervently pray, animate us all, bringing us together to discuss alike questions of abstraction and form, and consummating the act of concord, harmony, and peace, in such a manner as to heal not one only, but all the wounds of the country.

ON THE QUESTION: DOES THE CONSTITUTION CARRY SLAVERY INTO THE TERRITORIES?

IN SENATE, MAY 15, 1850.

[Mr. Davis, of Mississippi, had moved an amendment to the bill to establish governments in the Territories of Utah and New Mexico, so as to recognize the doctrine, that the Constitution of the United States would authorize and protect slavery there; in answer to which Mr. Clay said as follows.]

Mr. President—I am not perfectly sure that I comprehend the full meaning of the amendment offered by the senator from Mississippi. If I do, I think he accomplishes nothing by striking out the clause now in the bill, and inserting that which he proposes to insert. The clause now in the bill is, that the territorial legislation shall not extend to any thing respecting African slavery within the Territory. The effect of retaining the clause as reported by the committee will be this: that if in any of the Territories slavery now exists, it can not be abolished by the territorial Legislature; and if in any of the Territories slavery does not now exist, it can not be introduced by the territorial Legislature. The clause itself was introduced into the bill by the committee, for the purpose of tying up the hands of the territorial Legislature in respect to legislating at all, one way or the other, upon the subject of African slavery. It was intended to leave the legislation and the law of the respective Territories in the condition in which the act will find them. I stated on a former occasion that I did not, in committee, vote for the amendment to insert the clause, though it was proposed to be introduced by a majority of the committee. I attached very little confidence to it at that time, and I attach very little to it at the present. It is, perhaps, of no practical importance whatever.

Now, sir, if I understand the measure proposed by the senator from Mississippi, it aims at the same thing. I do not understand him as proposing that if any one shall carry slaves into the Territory—although by the law of the Territory he can not take them there—the legislative hands of the territorial government should be so tied as to prevent its saying he shall not enjoy the fruits of their labor. If the senator from Mississippi means to say that—

Mr. Davis, of Mississippi. I do mean to say it.

Mr. Clay. If the object of the senator is to provide that slaves may be introduced into the Territory contrary to the lex loci, and, being introduced, nothing shall be done by the Legislature to impair the rights of owners to hold the slaves thus brought contrary to the local laws, I certainly can not vote for it. In doing so, I shall repeat again the expression of opinion which I announced at an early period of the session. I think that the language of the amendment which the senator from Mississippi has offered, is just as much restricted as is the language of the bill which he proposes to strike out. His amendment does not provide in express terms for the privilege of introducing slaves, but merely declares that the territorial Legislature shall not interfere with the rights of property in slaves, as that property exists in a certain class of States. Very well. The Legislature is already restrained from so interfering, unless slaves are brought in contrary to the lex loci. If they be so brought in, then the amendment of the gentleman—although its language does not comprehend it—might secure to the introducer of slaves the protection of his property.

If the object of the senator, however, is, as he states, the language of it, I think, does not necessarily imply it. I repeat what I have before said, that I can not vote to convert a Territory already free into a slave Territary. I am satisfied, for one, to let the lex loci, as it exists, remain. Now, let us see what will be the effect of this in that portion of New Mexico east of the Rio Grande. Three opinions prevail upon that subject in the Senate. According to my opinion, the laws of Mexico still prevail in that country, because Texas never had possession of that country, never legislated for that country, and her laws never stretched over that country; but, on the contrary, the country remained in the possession of Mexico until, by the treaty of Guadalupe Hidalgo, it was ceded to the United States. In my opinion, therefore, the local law which prevails in New Mexico—as well in New Mexico east of the Rio Grande as west of it—is the law of Mexico, as pronounced by the Dictator of Mexico, by the constitutional authority of Mexico, and by the legislative power of Mexico. That is my own opinion. But, sir, there are, I may say, two other opinions on this subject. According to one of these opinions—which is maintained with so much ability by my friend from Georgia [Mr. Berrien] who sits near me—even admitting that the law of Mexico did extend to New Mexico this side of the Rio del Norte, the Constitution of the United States, by its own necessary operation, abrogated that local law, and invested the owners of slaves with the power of carrying their slaves into any portion of the territories acquired by us from Mexico. But there is still another opinion. There are many senators and members of the House of Representatives, and a large portion of the American people, who believe that all the territory this side the Rio del Norte, from its mouth to its source, is Texas, and that the laws of Texas consequently extend over

it; and therefore that the Texas laws comprehend New Mexico this side of the Rio del Norte, and that the lex loci of the territory east of the Rio del Norte is at this moment the law of Texas. If that opinion be correct, there is nothing in the bill reported by the committee to restrain the transportation of slaves from the slaveholding States into that portion of New Mexico which is on this side of the Rio del Norte. Hence there is nothing to prevent the bringing before the Supreme Court of the United States the question of the right of the slaveholder to preserve possession of his property, and enjoy the benefits of it, if he should take it to the Territories. There will be no difficulty about the matter if the bill as reported by the committee remains unchanged. And if the Supreme Court shall be of opinion either that the laws of Texas stretch over New Mexico this side of the Rio Grande, or, as maintained by my friend from Georgia that the Constitution of the United States abolished the Mexican laws by which slavery was abrogated, in either case the owner of slaves in New Mexico would have a right to enjoy the possession of his property. But if, on the contrary, as I believe, the Constitution did no such thing, and Texas, not having actual possession, did not extend her laws there, then it would follow that the right to maintain and carry slaves there would not prevail. I have endeavored, sir, to state the effect of the provision in the bill as reported by the committee, and the operation of the amendment of the gentleman from Mississippi, as I understand it.

Mr. Rusk. I desire, in this stage of the proceedings on this bill, to say but a few words in answer to a part of the argument of the senator from Kentucky. He seems to suppose that the extension of the laws of Texas over every foot of the territory claimed by her, is necessary to constitute a title to the territory; that unless actual possession and an actual extension of the law in the exercise of jurisdiction absolutely over every foot of the soil takes place, her title is incomplete.

Mr. Clay. My friend will allow me to correct him. I said nothing about title. I spoke of the law as it exists *de facto* or *de jure*. But law can not be introduced without some action by legislative authority, if there be a pre-existing local law. If there be a law *de facto*, although the title may be in Texas, yet the lex loci will exist until the law assuming that Texas has a good title is carried through by the force of legislative authority. I repeat, I said nothing about title. * * *

Mr. President, I desire to say only a few words. I had no purpose, sir, in any observations I made, to enter into any discussion or consideration of the question of title on the part of Texas to the country this side of the Rio del Norte; and my friend from Texas, therefore, whose zeal is entitled to the highest commendation in behalf of the rights of his own State, when he supposes them to be either directly or remotely infringed or endangered, might have saved himself the necessity of making any observations on the subject. The whole scheme, as he well knows, is founded on putting aside the consideration of the validity or invalidity of the title of

Texas to this territory. The bill—that part of it which relates to Texas—assumes that she has a claim to the country, and proposes a large pecuniary equivalent for that claim. In other words, we propose to buy our peace with Texas; and I am sure, when my friend comes to consider the liberal terms we propose—whether Texas has a good or a bad title to these lands, whether that title is a valid or an invalid one—he will say that these terms are such as are conceived and offered in a spirit of liberality.

Now, sir, with respect to another friend—my friend from Mississippi—allow me to say a few words. He seems to think that there is some inconsistency between my present course and that which I took the other day on the subject of non-action. Now this subject of non-action has been very much misconceived, both in the country and in Congress. Non-action, as respects legislation on the subject of slavery, is one thing—and for that I go; but non-action, so far as giving to these people, separated from their connection with the republic of Mexico, and brought under our jurisdiction—non-action as to giving them a suitable government, is a totally distinct thing. I am in favor of action as respects government for the Territories, but I am in favor of non-action as respects the question of slavery. I think that the honorable senator from Mississippi [Mr. Davis], when he comes to consider the distinction, will see that there is no inconsistency between my present course, and that which I took a few days ago.

Now, sir, with respect to the amendment offered by the senator from Mississippi. The senator says there is a right on the part of the slaveholder in any of the slave States of the Union, to carry his slaves into Utah and Mexico, on this side or on the other side of the Rio Grande; that the Constitution of the United States has abrogated or abolished the laws of Mexico, and that, therefore, in virtue of the operation of the Constitution, this right exists. He went on further to intimate that the laws of Texas perhaps privileged them, and that the laws of Texas might have abrogated the laws of Mexico on the subject of slavery. These are the opinions of the senator from Mississippi. It is my misfortune—and I regard it as one, I assure him—to have to declare that I differ from him. And, sir, how is the existing difference to be settled? By that very judicial authority to which the senator in a former session was so ready to refer it. If I am right in my supposition or opinion in regard to the prevalance of this or that law, why then, when the question comes before the Supreme Court of the United States, to which it will be carried, the right to carry slaves there will be disavowed. If, on the other hand, the senator from Mississippi is right, either in supposing that by the Constitution of the United States or by the local law the introduction of slaves is authorized, or that the laws of Texas stretch over the country, and authorize the introduction of slaves, in either contingency the senator will attain the object he proposes—the right of the owners of slaves to carry them there. I think with these two chances against me the honorable senator ought to be satisfied, believing, as he appears to believe, that both the

Constitution of the United States and the laws of Texas authorize the carrying of slaves there; whereas I go upon the ground that the laws of Mexico did stretch over there, and that the laws of Texas did not; because although it may be conceded, for the sake of argument, that Texas has a good title, yet she had not the possession *de facto;* and I can assure him, and I can put it to nobody more confidently, that there is a difference between a title without possession, and the obligations of the local law, or the obligations of the government *de facto* to maintain its authority, notwithstanding it is not connected with the title. Sir, there are numbers of cases of this kind. In the case of the Stuarts, in England, when contending with the Commonwealth—when the throne was vacated, when Charles I. was beheaded, when England was under the Commonwealth, who ever supposed, after there was a restoration of the authority of the crown, and a replacement of the monarch on the throne—who ever supposed that the laws passed during the reign of the Commonwealth had no force, because they were laws by a government *de facto* and not by a government *de jure?* However, these are questions which are not worth taking up the time of the Senate to consider, and the simple question now before the Senate is, whether it will adopt an amendment; and I shall feel myself constrained to vote against it, although I greatly regret to differ from the senator from Mississippi [Mr. Davis]. But I will take his amendment as he intends to propose it, and I shall vote against it upon the supposition that the sense which he intends to convey is in fact conveyed by its language. Then, what is that proposition? The proposition is, that by express legislative authority you shall recognize the right of the owners of slaves to carry these slaves into Utah and New Mexico; that they should be carriable there by the authority of Congress; that they may be transported there by the authority of the amendment which the senator offers.

Now, sir, I can only repeat, what I have often had occasion to say before, that while I am willing to stand aside and to make no legislative enactment, one way or the other—to lay off the Territories without the Wilmot proviso on the one hand, with which I understand we are threatened, or without an attempt to introduce a clause for the introduction of slavery into the Territories—while I am for rejecting both the one and the other, Iam contented that the law as it exists shall prevail; and if there be any diversity of opinion as to what it means, I am willing that it shall be settled by the highest judicial authority of the country. While I am content thus to abide the result, I must say that I can not vote for any express provision recognizing the right to carry slaves there.

And allow me to say to the senators from the South, and to my friend from Mississippi, if he will allow me to apply that expression to him, which I do with the most profound truth and sincerity—for he is not only my friend, but he was also the friend of one who is now no more—allow me to ask him, sir, and the other southern senators, if, with their views of

what ought to be done on the subject of slavery, they can think it right that Congress, by an express enactment, should authorize its introduction into these Territories? Does not that power, in virtue of which you would expressly provide for the introduction of slavery, imply the converse of the proposition, and the right to pass a law for the prohibition of slavery? And yet if I have been fortunate enough to understand the doctrine of southern gentlemen generally, it is one of entire absence of all legislation upon the subject of slavery, either pro or con. Yet, if the amendment of the senator from Mississippi be adopted, as I understand it, it recognizes, by an irresistible conclusion, the power of Congress to prohibit as well as to introduce slavery into these Territories.

Now, Mr. President, I appeal to the senator from Mississippi upon this occasion, with the great object in view which animates us all with a great desire—a desire which is prevalent throughout the country—to terminate the discussion of these questions, and to settle them upon some basis of amicable accommodation—is it worth while for us to be disputing about —what? The right to carry slaves where no man on earth would ever think of carrying them—the right to carry slaves north of the line delineated in the bill for the adjustment of the territorial question with Texas; to carry them where they can not go, where they would not be held as a gift, and where labor at this moment, as I learn from authorities referred to the other day, may be obtained at the rate of from three to four dollars per month? Sir, I hope we will not allow ourselves to be divided upon this unimportant question, but that we will dispose of it in such a manner as will show that we are anxious to consummate the great object we all so earnestly desire.

ANSWER OF OBJECTIONS TO THE REPORT OF THE COMMITTEE OF THIRTEEN.

IN SENATE, MAY 21, 1850.

[THE report of the Committee of Thirteen, of which Mr. Clay was chairman, was doomed to encounter objections, both from the North and from the South—more especially from the South. It became necessary, therefore, for Mr. Clay, as chairman of the committee, and having this report in charge, to answer these objections. The following speech is chiefly devoted to that object.]

THE Senate, having under consideration the special order, being the bill to admit California as a State into the Union, to establish territorial governments for Utah and New Mexico, and making proposals to Texas for the establishment of her western and northern boundaries—and Mr. Soulé having addressed the Senate—

MR. CLAY said—

Mr. President: The debate has been conducted in this case with great irregularity. A single proposition was before the Senate, and that an amendment to a particular section, in relation to the prohibition as to legislation by the territorial governments on the subject of African slavery. And, although this was the sole question pending before the Senate, senators have launched out upon the broad ocean, and embraced in the course of their arguments, the entire subject. Sir, I feel constrained, in vindication of the acts of the committee of which I was an humble member, to meet some of the arguments of the honorable senators; and I will begin with the last, who has just sat down. The senator from Louisiana finds himself unable to concur in the scheme of compromise which has been proposed. Will that senator condescend to present a contra project of his own for the satisfaction and reconciliation of the people of this country? Will he tell us what he wants? Sir, this finding of fault, and, with the aid of a magnifying glass, discovering defects, descrying the little animalculæ which move upon the surface of matter, and which are indiscernible to the naked natural eye, is an easy task, and may be practiced without any practical benefit or profitable result. It is the duty of the

senator who has just addressed us—it is the duty of all who assail this compromise, to give us their own and a better project; to tell us how they would reconcile the interests of this country, and harmonize its distracted parts. And I venture to say that, upon every subject of which the learned senator has treated, he has done great injustice to the acts of this committee. I do not mean to follow him throughout the whole course of his remarks, but I will take a rapid notice of his objections to the various features of this report.

Sir, he began, if I am not mistaken, with that which relates to the recovery and restitution of fugitive slaves; and he said, with an air of great dissatisfaction, if not of derision, that the committee had brought back that bill with certain embarrassments instead of improvements. Sir, I beg you to recollect that the greatest objections made to the amendment relating to fugitive slaves come from States which are not suffering under the evil of having to recover fugitive slaves. I stated here the other day, what I repeat again now, that my own State is perhaps the State suffering most from this cause, while the State of Louisiana is among those States which suffer from it the least. And yet the honorable senator from Louisiana, when we are satisfied with these provisions, sees in them objections which are insurmountable. And what are the embarrassments of which he complains? Why, sir, that the slave owner, in the pursuit of his fugitive property, has to carry with him a record! That instead of carrying with him, in pursuit of his slave, at great trouble and expense, witnesses and loose affidavits, he is fortified by an authentic record! That, I say, is an advantage and a protection to the slaveholder—a great advantage; for that record will command respect in the free States, and will give him an advantage which oral testimony or loose affidavits taken before a justice of the peace could never confer. The record, moreover, is a cumulative, not an exclusive remedy, leaving him free to employ the provisions of the act of 1793.

With respect to the other portion of the report which relates to this subject—that of trial by jury—where is the inconvenience of such a trial taking place in the State from which the fugitive has fled? In point of fact it will be no disadvantage, for there will not be one instance in a thousand where the bond to allow a trial by jury at home will incommode the slave owner, since the fugitive will be found to have asked for it as a mere pretext; and when he gets back to his own State he will, beyond all question, abandon that pretext. Sir, I put it to the honorable senator whether he does not believe that this will be the case; and this, you will recollect, is proposed as a substitute and a satisfaction to the North of that trial by jury which they contend for at a distance from home, and which I have already insisted would amount to a virtual surrender of the constitutional provision. Moreover, it is granting to the slave only the right which he now indisputably possesses, in all the slaveholding States, of resorting to their tribunals of justice to establish his claim to his freedom, if he has one.

Mr. President, I find myself in a peculiar and painful position in respect to the defense of this report. I find myself assailed by extremists everywhere; by under currents; by those in high as well as those in low authority; but, believing, as I do, that this measure, and this measure only, will pass, if any does pass, during the present session of Congress, I shall stand up to it, and to this report, against all objections, springing from whatever quarter they may.

Sir, it was but the other day that I found myself reproached at the North for conveying an alledged calumny of their institutions by saying that the trial by jury in this particular description of case, could not be relied upon as a remedy to the master who had lost his slave; as if I had made any such charge on northern judges and juries, in ordinary cases, in the way of reproach, or had not applauded the administration of justice both in our State and our federal courts generally. But I urged, that if, in Massachusetts, you require a Kentuckian, going in pursuit of his slave there, to resort to a trial by jury on the question of freedom or slavery of a fugitive, it would be requisite, in consequence of such an assertion of privilege on the part of the fugitive, that the parties should produce testimony from the State of Kentucky; that you will have to delay the trial from time to time; that there must be a power to grant a new trial, and that a supervisory power would be necessary when you come to a final trial; that distant and foreign courts would be called on to administer the unknown laws of a remote commonwealth; and that, when you sum up the expenses and charges at the end of the case, although the owner may eventually recover his property, the contest to regain it would have cost him more than it is worth; that, in short, he might be largely out of pocket, and that he would find he had better never have moved at all in the matter. That was the argument which I used; and yet, at the North, I am accused of casting unmerited opprobrium upon the right of trial by jury and the administration of justice; while at the South, in another and the last extreme, from which I should have expected any thing of the kind, I find that this amendment is objected to as creating embarrassments to the owners of fugitive slaves. Sir, this is something like the old song—

> "I do not like thee, Doctor Fell:
> The reason why, I can not tell;
> But this I know, and know full well,
> I do not like thee, Doctor Fell."

Such, Mr. President, are their objections to this measure.

Now, let us follow the honorable senator from Louisiana a little further. One of his great objections, was in the clause which prohibits the territorial Legislatures from passing any law in respect to African slavery within the Territories. Did the honorable senator know the history of that clause? Did he know that that clause was moved in the Committee of Thirteen by his own colleague? Did he know that that clause was voted for by every

southern member on that committee except myself, if I am so to be denominated, contrary to what is my usual habit of denominating myself? Every southern man on that committee voted for the clause which is the theme of the senator's criticism to-day, against my opinion, and that of all the northern members of that committee, with I believe one solitary exception! And yet, the moment it presents itself, although it comes under southern auspices, it is objected to!

Again, I ask the honorable senator from Louisiana, if this is to be rejected, tell us what you want; put it down in black and white; put down your project; compare it with that of the committee, and let us know the full extent of your demands, and then we shall be able to pass judgment upon them, approving them if we can, and do not restrict yourselves, in this unstatesmanlike manner, to the mere finding of fault with what is already proposed, without offering a solitary substitute for the measures you oppose.

Now, sir, the honorable senator raises great objection to this clause of prohibition. He tells us that no police regulations can be made. Either there is slavery there or there is not. If there is no slavery there, then there is no need of any police organization. If there be slavery there, then the necessary police regulations exist already. And I imagine that they will be found sufficient, as they have already been found in time past; at all events from the present time until the time when States shall be formed out of these Territories. Now, let him escape from that dilemma if he can. I repeat it, if there is slavery there, there are police regulations; if there is no slavery, then none are required.

Sir, the aim of the committee, in the introduction of that clause—I speak for every member of it, and the honorable mover of it as well as others—was simply to do this: to declare that the territorial Legislatures should have power neither to admit nor to exclude slavery. That was our purpose—our sole purpose; and if the amendment does not accomplish that purpose, would it not be more consistent with a spirit of amity—with that desire of settling these questions which, I trust and hope, animates the senator from Louisiana as well as others—would it not have been more conformable to that spirit to have moved an amendment, simply providing against the admission or exclusion of slavery in these Territories, leaving them free to establish any police regulations they please, than to have attacked this measure in the manner which he has done, as if that clause contained some new and dangerous principle to be guarded against; and as if it did not embody the exact principle for which the South has uniformly contended?

Again, the honorable senator objects to the clause interdicting the slave-trade in the District of Columbia. He objects to it on two grounds. In the first place, because the committee do not affirm in their report that there is no constitutional power in Congress to pass upon the subject of slavery in this District. Now, what is the opinion of the senator and of

the Senate upon the subject? A large portion, probably a majority of the Senate, believes that Congress has the power; another portion believes that Congress has no such power. And how does the honorable senator expect to arrive at a compromise in which one of these opinions shall be made to triumph over the other? How does he expect that those senators who think that the power does exist in Congress to abolish slavery in the District of Columbia, are to plunge their hands into the inmost recesses of their souls, and drag out the truth which lies there? If he wants a compromise, he must take it without asking senators, on the one side or on the other to repudiate their fixed and deliberate opinions; if he does not want a compromise, then let him insist that one class of senators shall surrender the opinions which they hold to the other class. Sir, I thought that the committee were on that subject as happy as they could be. The report neither affirms nor denies the power of Congress to abolish slavery within the District of Columbia. It says that it ought not to be done; and he who thinks it ought not to be done upon constitutional grounds, ought to be satisfied; and he who thinks it may be done constitutionally, but who believes that it ought not to be done, from considerations of expediency or kindness, or fraternal regard toward other portions of the country, ought also to be satisfied. Thus, by neither affirming nor denying the power, but by asserting that the power ought not to be exercised, I say it is a compromise with which all ought I think to be perfectly satisfied. Does the honorable senator expect that my learned friend in my eye [Mr. Webster], who has no doubt about the power, will give up that opinion? Does he expect that he will renounce his deliberate, well-considered, and well-formed opinion, which he has entertained for years? Does the South expect to succeed in any such demand as that? Will the senator from Louisiana demand it? If he does, he demands that there shall be no compromise, no settlement of the questions which are now agitating the country.

But, sir, the honorable senator has misconceived the bill for abolishing the slave-trade which the committee have reported. This bill is a mere adoption of the law of Maryland. I will here mention a fact which shows how wrong it is to prejudge a thing. An honorable friend of mine, in my eye, has suggested that the object can be accomplished in a certain mode; and I should like to know, from the senator from Louisiana, whether he thinks it attainable and acceptable in that way or not? The introduction of slaves now into this District, either for sale or for being placed in dépôt for subsequent transportation, arises out of two laws which were passed by Congress itself, one in the year 1802, and the other some years after, permitting it to be done. The senator to whom I have referred observed to me some time ago, "Mr. Clay, you can accomplish your object simply by repealing these two laws, and by leaving the state of the law where it was before Congress allowed by law the introduction of slavery into this District." I have not examined the two acts of Congress; but, as I know the

senator to be familiar with the laws of this District and the laws of Maryland, I have no doubt that he is right. Now, if instead of adopting the law of Maryland, which, in other words, is the bill proposed by the committee, we had proposed simply to repeal these two acts of Congress, in virtue of which alone slaves have been introduced into the District for the purpose of being transported to New Orleans and elsewhere, would he think it wrong, would he think it unconstitutional? Would he think it was alarming to the rights of the people of the South for Congress to repeal its own laws? Sir, where there is a disposition to look at things with an impartial and a candid eye, and to look at all the interests of all the parts of the country, and all the opinions, and all the prejudices, if you will, of our fellow-citizens, we shall be much more likely to arrive at a satisfactory and harmonious result, than by attaching ourselves to a single position, and viewing from that point every thing, and seeking to bring every thing to the standard of our own peculiar opinions, our own bed of Procrustes.

The senator is mistaken in saying that a resident of the District can not go out of the District and purchase a slave and bring him here for his own use.

Mr. Soulé. I feel assured that the honorable senator has misunderstood me. I have merely stated that the effect of this section, if I understand it well, will be to preclude the introduction into the District of any slave for the purpose of being sold, even if it were for the purpose of supplying the necessities of those inhabiting the District; and I know that the honorable senator will do me the justice, on looking at the section, to admit that such will be its legal effect.

Mr. Clay. Well, what is the inconvenience of it? A slave can not be brought within this place for sale and be here sold, but a man who wants a slave here may go to the distance of five miles and purchase one, and bring him here, not for sale, but for his own use. The real amount of inconvenience, is, that a resident within the District will have to travel five miles to purchase a slave, instead of the slave being brought here to be sold. There is nothing whatever in the bill which prohibits a resident within the District from going out of the District and purchasing a slave for his own use. The only prohibition is, that no slave can be brought into the District or into market for sale, as merchandise, without a forfeiture. But, sir, I repeat that, by the repeal of the laws under which this is done, all difficulty might have been obviated; and as it will probably be, if the bill be allowed to take its usual course.

No part of this compromise seems to receive commendation from the senator of Louisiana, or to afford him any solace or satisfaction. He says that it has been contended by me and by others, that the law of Mexico abolished slavery, and that it does not exist there by law, and is not likely to be introduced there, in point of fact. I can not renounce that opinion. It is impossible in my nature for me to do so. I can not disbelieve what I believe. But the honorable senator has taken up the greater portion of the

time in which he has so ably and so eloquently addressed us, to prove—what? That that opinion of mine is incorrect. He has gone into a historical account of the abolition of slavery in Mexico; he has gone into the negotiations which led to the conclusion of the treaty of Hidalgo; he has gone behind the negotiations into the instructions given with regard to the proposition of the Mexican commissioners, forbidding the introduction of slavery in the ceded Territories. He has come into the Senate, and traced what has been done in this body, in order to prove that even here, by the negative of a proposition, moved, I believe, by a senator from Connecticut, there was an implied purpose on the part of Congress to allow slavery, or rather to recognize it there. Now, can not the senator be satisfied with his own view? He thinks that slavery is not abolished there. I know that he is much more eminent as a jurist than I ever aspire to be. Why, then, is he not satisfied with his own opinion? Will he not, in a spirit of liberal toleration, allow an opposite opinion to be entertained? But the objection to the measure is, that, although this proposes to be a settlement of all the questions involved, yet there is one question which is left unsettled, that of the lex loci in regard to slavery in these Territories, which ought to have been adjusted. Will he tell me how it could be settled? Will he or any body else tell me how it can be settled, otherwise than by the Supreme Court of the United States, whether the law of Mexico did or did not abolish slavery within the limits of those Territories? That is what the committee propose to do. They have recommended this plan to the consideration of the Senate, and of the country, as a measure of general compromise, which would settle all the questions that were practicable or possible for legislation to settle. The question which the senator supposes is left unsettled, can only be settled by the Supreme Court of the United States, and there it is left.

Now, sir, it is a little remarkable that the senator argued with such great ingenuity, and great earnestness, that, according to the local law of Mexico, slavery was not abolished; that according to the local law of Mexico, there was a right on the part of the slaveholder to carry his slaves there; that, according to that local law, and the Constitution of the United States, that right exists. If it does, ought not the senator to be satisfied? Why, I should suppose that it was all that he wanted. He says that the right to carry slaves there exists, and that Congress has no power to legislate on the subject of slavery one way or the other. What more, then, does he want? He says that the lex loci admits the existence of slavery. Then has not the honorable senator got precisely what he wants?

Mr. Soulé. The honorable senator does me injustice. I expressly admitted that slavery was abolished by the Mexican law. I never raised a doubt upon that question. Slavery has been abolished within the limits of Mexico by the constitutional power of Mexico. So far as that goes, therefore, there can not be the shadow of a doubt in the mind of any one, that, if the Mexican law prevails, slavery is already abolished and utterly eradicated.

Mr. Clay. I understood the senator to be assailing the opinion which I entertained and expressed.

Mr. Soulé. I certainly did not.

Mr. Clay. Be that as it may, the honorable senator contends for that which is equivalent to the non-abolition of slavery by the Mexican law—that the right to carry slaves into the ceded Territories was restored by virtue of the Constitution of the United States.

Mr. Soulé. That is it.

Mr. Clay. That, then, is what the senator contended for. Very well, then. If, by the Constitution of the United States, there is a right, on the part of every slaveholder in this country, to carry slaves into the ceded Territories (which I certainly do not believe or admit), what more does the senator want? He talks about the *statu quo*. The *statu quo* is precisely what I should suppose him to want. But, superadded to that, if that be with him, is the Constitution of the United States. And yet he is not satisfied. Does he wish the Constitution to be re-enacted? Can the paramount authority be strengthened by an act of subordinate power? Would he recommend the introduction of the Wilmot proviso into the bill, or a legislative enactment to admit slaves, because the plan of the committee is silent upon that subject? The senator is not satisfied with this compromise. Will he tell us now, in so many words, what he would put into an act of Congress to satisfy himself upon the subject of slavery? I should be extremely happy to hear it.

Mr. Soulé. I am ready to answer the honorable gentleman at once. I will be satisfied with this section of the bill, if the amendment proposed by the senator from Louisiana prevail. That is all I want. I am willing to abide by that section, provided the amendment proposed by the senator from Mississippi, and which I have this morning sustained, be adopted. I will also be satisfied with other portions of the bill, if reasonable amendments shall be made.

Mr. Clay. I am happy to find that there is some possibility that the senator may yet vote with us. Perhaps I should have been less earnest if I had not despaired of ever obtaining his vote. I really thought that, from the course of his argument, and from the manner in which he treated every proposition contained in the report, he was a gone case; that he was hopeless; that nothing could reconcile him to any scheme that the committee could propose. I regret, however, to perceive that the senator, in announcing what would satisfy him, restricts himself to this section. But, now, I should like to know what other law the senator wants upon the subject of slavery than the paramount law of the Constitution of the United States?

Mr. Soulé. Protection.

Mr. Clay. The paramount law of the Constitution affords that protection.

Mr. Soulé. I think it does not afford that protection.

Mr. Clay. Will the senator be satisfied with striking out the clause?

Mr. Soulé. I will be satisfied with the clause provided it be modified as proposed by my friend from Mississippi.

Mr. Clay. But that amendment the senator knows I can not agree to, because it assumes a fact the existence of which I deny. It assumes the fact that slaves are there. I maintain that there are none there, except here and there a body servant that has been carried there by those who are sojourning or traveling through the country.

If the senator will be satisfied with striking out the clause, I will vote to strike it out, because I voted against putting it in. Or I would consent to its being so modified as to declare that the territorial Legislature shall neither admit nor exclude slavery, which will leave it open to police regulations. If the senator will be satisfied with that, I am content. But, if the senator desires, by any indirect means, by any clause which goes beyond its professed object, by any implication which can result from that clause, to assert either that slavery exists now in that country, or that it is lawful to carry it there under the Constitution of the United States, I, for one, can not agree to it. If the senator will agree to the modification of the clause, so as to declare that the territorial Legislature shall pass no laws either to admit or exclude slavery—

Mr. Webster. Respecting the establishment or exclusion of slavery.

Mr. Clay. Certainly. If the senator will agree to modify the clause so as to declare that the territorial Legislature shall pass no laws respecting the establishment or exclusion of slavery, I will go for it with pleasure.

Mr. Soulé. I wish not to misunderstand the honorable senator, but if I understood his argument, it seems to imply that the amendment proposed by the honorable senator from Mississippi assumes the existence of slavery there; I can not concur with him in that. The amendment assumes that slaves may be there, but it certainly will not carry them there if they be not already there. And if any right exists under the state of things which that asserts, I can not conceive what serious objections can be entertained on the part of the honorable senator to the amendment proposed by the senator from Mississippi. It only protects whatever rights may exist there. It does not give any right. It only seeks to protect such rights as, under the Constitution of the United States, may now, or hereafter exist. For these reasons I shall vote for the amendment. I beg the pardon of the honorable senator for interrupting him.

Mr. Clay. Well, sir, if the honorable senator will be satisfied with such an amendment as I have suggested, and which I understood the other day was satisfactory to most gentlemen on that side of the House—an amendment declaring that the Legislatures of the Territories shall neither establish nor exclude slavery—I am content. Then it will leave open all these questions of right to be settled under the Constitution of the United States, and all those matters of police which are stated to be desirable. But I can not agree to an amendment which, in point of fact, assumes that

slavery has an existence there at this time, and assumes in point of law that, under the Constitution of the United States, there is a right to carry slaves there. I can not vote for either proposition. I repeat that I am ready to vote to strike out the clause, to retain the clause, or to modify the clause in the way I have suggested, which will accomplish all the objects sought for on the other side of the House, if I understand them.

Now, Mr. President, I am not going, at this time of the session, and at this stage of the progress of this measure, to discuss the question of the validity of the laws of Mexico. The question whether the opinions expressed by me and by others, or the opposite ones, be right, can only be decided by the Supreme Court of the United States, upon a proper case brought before that tribunal. We go as far as we can to settle all these questions. We establish governments there and courts there, from which courts appeals may be taken, according to the express provisions of the bill, to the Supreme Court of the United States. A question as to whether or not the Mexican law prevails in these Territories, or whether the Constitution admits slaves to be taken there, can only be decided by that tribunal.

Mr. President, I will not say any thing more with respect to the able, ingenious, and eloquent argument of the senator from Louisiana; but I will proceed to the other subjects which I propose to discuss. I am not one of those who, either at the commencement of the session or at any time during its progress, have believed that there was any present actual danger to the existence of the Union. But I am one of those who believe that, if this agitation is continued for one or two years longer, no man can foresee the dreadful consequences. A dissolution of the Union, the greatest of all calamities in my opinion which can befall this country, may not in form take place; but next to that is a dissolution of those fraternal and kindred ties that bind us together as one free, Christian, and commercial people. In my opinion, the body politic can not be preserved unless this agitation, this distraction, this exasperation, which is going on between two sections of the country, shall cease. Unless it do cease, I am afraid that this Union, for all the high and noble purposes for which our fathers formed it, will not be preserved.

Mr. President, I will go so far as to venture to express this opinion, that unless this measure of compromise, not the exact words of the bill—for the committee, I am sure, will agree to any amendments or modifications which will better the measure—but unless some measure of this kind pass, I hazard the prediction that nothing will be done for California, nothing will be done for the Territories, nothing upon the fugitive slave bill, nothing upon the bill which interdicts slavery in this District. Unless some such measure prevail, instead of healing and closing the wounds of the country, instead of stopping the effusion of blood, it will flow in still greater quantities, with still greater danger to the republic. And I repeat, that in my opinion the measure upon your table, with such amendments as it may re-

ceive, or some tantamount measure, must pass, or nothing passes upon all the subjects to which the report refers.

Let us look at the subject. If you do not pass this measure, there is a possibility, some gentlemen will say a high probability, that the California bill will not pass. I have no doubt myself but that there are large majorities in both Houses of Congress in favor of the admission of California into the Union; but from causes upon which I shall not dwell, and which are adverted to by me not with pleasure, but with pain, I am afraid that that bill never will pass the two Houses as a measure by itself. What, then, will be the condition of the country? Let us suppose that Congress does nothing; let us suppose that it fails to furnish a remedy for any one of the evils which now afflict the country. Suppose we separate and go home under those mutual feelings of dissatisfaction and discontent which will arise out of the failure of Congress to adjust these questions. I will say nothing of the reproach and opprobrium that would be brought upon us by all Christendom. I will say nothing of those who are looking upon us with anxious solicitude, under the hope that we will fulfill all the expectations and fulfill the high destinies which appertain to one among the greatest of all countries. I will say nothing of that large portion of mankind who are gazing with intense anxiety upon this great experiment in behalf of man's capacity for self-government and man's freedom. I will say nothing of all this. Suppose, then, after the lapse of six or seven months, during which we were vainly endeavoring to reconcile the distracted and divided parts of the country, we go home full of the feelings of rage and animosity, one section against another. In such a state of feeling can the republic long continue? Let us suppose, however, that you reject this bill and pass the California bill, and go home in that state of things; what will not the South say? What reproaches will it not level at the North upon this subject? They will say to the North, "You got all you wanted; you got the substitute for the Wilmot proviso; you have got a clause much more potent, much more efficacious than that; you have got the interdiction of slavery in the Constitution of California; you have got all you wanted for the present, and have refused us every thing; you have seized upon California, and hereafter, from time to time, you mean to appropriate the whole of our acquisitions to your exclusive benefit." In that state of feeling of mutual exasperation and excitement, with a heated press, with heated parties, with heated lecturers, with heated men, how can you expect hereafter to come back to this theater of strife and contention calm and composed, to settle difficulties which six months of earnest and anxious labor have not enabled you to adjust?

It is said that nothing has been done for the South in the establishment of these territorial governments; nothing in this measure of compromise. What, sir! Is there nothing done for the South when there is a total absence of all congressional action on the delicate subject of slavery; when Congress remains passive, neither adopting the Wilmot proviso, on the one

hand, nor authorizing the introduction of slavery on the other; when every thing is left in *statu quo?* What were the South complaining of all along? The Wilmot proviso—a proviso, which if it be fastened upon this measure, as I trust it may not be, will be the result, I apprehend, of the difficulty of pleasing southern gentlemen. Their great effort, their sole aim has been for several years to escape from that odious proviso. The proviso is not in the bill. The bill is silent; it is non-active upon the subject of slavery. The bill admits that if slavery is there, there it remains. The bill admits that if slavery is not there, there it is not. The bill is neither southern nor northern. It is equal; it is fair; it is a compromise, which any man, whether at the North or the South, who is desirous of healing the wounds of his country, may accept without dishonor or disgrace, and go home with the smiles which the learned senator regretted he could not carry with him to Louisiana. They may go home and say that these vast Territories are left open. If slavery exists there, there it is. If it does not exist there, it is not there. Neither the North nor the South has triumphed; there is perfect reciprocity. The Union only has triumphed. The South has not triumphed by attempting to introduce slavery, which she would not if she could, because she maintains (although it is not my own individual opinion) that Congress has no right to legislate on the one hand for its introduction, or on the other for its exclusion. Nor has the North been victorious. She may, indeed, and probably will, find her wishes ultimately consummated by the exclusion of slavery from our territorial acquisitions; but if she does, that ought not to be an occasion of complaint with the South, because it will be the result of inevitable causes. The bill has left the field open for both, to be occupied by slavery, if the people, when they are forming States, shall so decide; or to be exclusively devoted to freedom, if, as is probable, they shall so determine.

Now let me call the attention of the Senate to a very painful duty, which I am constrained to perform, and which I shall perform let it subject me to what misinterpretation it may, here or elsewhere. I mean the duty of contrasting the plan proposed by the executive of the United States with the plan proposed by the committee of thirteen. If the executive has a friend —(I do not mean exactly that, because I believe and wish myself to be a friend of the executive, feeling most anxious to co-operate with him)—but if there be a friend of the executive who supports his measure to the exclusion of the committee, will he stand up here, and meet us face to face upon the question of superiority of the one measure to the other? Let us here, and not in the columns of newspapers, have a fair, full, and manly interchange of argument and opinion. I shall be ready to bear my humble part in such a mental contest. Allow me to premise by assuming, in the first place, that every friend of his country must be anxious that all our difficulties be settled; and that we should once more restore concord and harmony to this country.

Now, what is the plan of the president? I will describe it by a simile,

in a manner which can not be misunderstood. Here are five wounds—one, two, three, four, five—bleeding and threatening the well-being, if not the existence of the body politic. What is the plan of the president? Is it to heal all these wounds? No such thing. It is only to heal one of the five, and to leave the other four to bleed more profusely than ever, by the sole admission of California, even if it should produce death itself. I have said that five wounds are open and bleeding. What are they? First, there is California; there are the Territories second; there is the question of the boundary of Texas the third; there is the fugitive slave bill the fourth; and there is the question of the slave-trade in the District of Columbia fifth. The president, instead of proposing a plan comprehending all the diseases of the country, looks only at one. His recommendation does not embrace, and he says nothing about the fugitive slave bill or the District bill; but he recommends that the other two subjects, of territorial government and Texas boundary, remain and be left untouched, to cure themselves by some law of nature, by the vis medicatrix naturæ, or some self remedy, in the success of which I can not perceive any ground of the least confidence. I have seen with profound surprise and regret, the persistence—for so I am painfully compelled to regard the facts around us—of the chief magistrate of the country in his own peculiar plan. I think that in the spirit of compromise, the president ought to unite with us. He recommends the admission of California. We are willing to admit California. We go with him as far as he goes, and we make its admission compose a part of a general plan of settlement and compromise, which we propose to the consideration of the Senate. In the spirit of compromise which, I trust, does, and which I know ought to, animate both ends of Pennsylvania avenue, we had a right to suppose, when the committee announced in its report that it was satisfied with his recommendation, so far as it went, but that it did not go, in our respectful judgment, far enough, and that we therefore offered our measure to close up the four remaining wounds—I think, that in a spirit of peace and concord, and of mutual confidence and co-operation, which ought to animate the different departments of the government, the president, entertaining that constitutional deference to the wisdom of Congress which he has professed, and abstaining, as he has declared he would abstain, from any interference with its free deliberations, ought, without any dissatisfaction, to permit us to consider what is best for our common country. I will go a little further in this comparison, which I make most painfully. After the observations which I addressed to the Senate a week ago, I did hope and trust there would have been a reciprocation from the other end of the avenue, as to the desire to heal, not one wound only, which being healed alone would exasperate and aggravate, instead of harmonizing the country, but to heal them all. I did hope that we should have had some signification in some form or other, of the executive contentment and satisfaction with the entire plan of adjustment. But, instead of concurrence with the committee on

the part of the executive, we have an authentic assurance of his adherence exclusively to his own particular scheme.

Let us look at the condition of these Territories, and I shall endeavor to do what has not been done with sufficient precision, to discriminate between non-action or non-intervention in regard to slavery, and non-action as it respects the government of the people, who, by the dispensations of Providence, and the course of events, have come to our hands to be taken care of. To refrain from extending to them the benefit of government, law, order, and protection, is widely different from silence or non-intervention in regard to African slavery.

The recommendation of the president, as I have already said, proposes the simple introduction of California as a State into the Union—a measure which, standing by itself, has excited the strongest symptoms of dissatisfaction in the southern portions of the confederacy. The recommendation proposes to leave all else untouched and unprovided for. In such an abandonment, what will be the condition of things? The first approximate territory to California is Utah, and in what condition is that left by the president's message? Without any government at all. Without even the blessing or curse, as you may choose to call it, of a military government. There is no government there, unless such as the necessities of the case have required the Mormons to erect for themselves. Until the common parent shall have spread its power and its authority over them, they have no adequate government.

Then, next comes New Mexico; and in what condition does the president's message leave her? With a military government—a military government which, administered as it is proposed to be, is no government. While upon this part of the subject, let me call your attention to what has been said by the delegate from that Territory, in a feeling address which he has recently published to the people of New Mexico.

Mr. Underwood, at the request of Mr. Clay, read the following extracts:

"Why have our rights, which are certainly indisputable, been so long withheld? Why have we been compelled to live under a military domination, so repugnant to freemen, and so opposed to the acknowledged spirit and foundation of this government? Why, our condition, instead of being improved by the transfer of allegiance, as was promised to us, has been continually getting worse. Why has this government so long neglected giving you that protection against Indian depredations, which was so often promised, both before and since the treaty of cession? Why, the connection with this government, which you have been encouraged to look forward to as the beginning of your prosperity and improvement, has had its opening with three years of depredation, miserable misrule, and military despotism."

Again:

"It is useless for me to remind you that you have no other than a military

government to administer the civil laws with which you came into the Union (and under which you and your ancestors have lived for two centuries). What other executive have you but the commander of the troops in New Mexico? Does he not absolutely control all the civil establishments of your country? Is there a civil officer but holds his office by commission from the military officer during his will and pleasure? Has he not, indeed, assumed to order the courts whom to bring to trial, and in every way prescribed their jurisdiction? And when the Secretary of War commands him not to interfere, or prevent the officers from Texas to exercise their commissions in your territory, can that be called a neutrality? Is it not a virtual abandonment of the government?"

Mr. CLAY. Mr. President, with regard to Utah, there is no government whatever, unless it is such as necessity has prompted the Mormons to institute; and when you come to New Mexico, what government have you? A military government, by a lieutenant-colonel of the army! A lieutenant-colonel—a mere subordinate of the army of the United States—holds the governmental power there, in a time of profound peace! Stand up, whig who can—stand up, democrat who can, and defend the establishment of a military government in this free and glorious republic, in a time of profound peace! Sir, we had doubts about the authority of the late president to do this in time of war, and it was cast as a reproach against him. But here, in a time of profound peace, it is proposed by the highest authority, that this government, that this military government—and by what authority it has continued since peace ensued, I know not—should be continued indefinitely, till New Mexico is prepared to come as a State into the Union. And when will that be? There are now about ten thousand people there, composed of Americans, Spaniards, and Mexicans; and about eighty thousand or ninety thousand Indians, civilized, uncivilized, half civilized, and barbarous people; and when will they be ready to come in as a State? Sir, I say it under a full sense of the responsibility of my position, that if to-morrow, with such a population, and such a Constitution as such a population might make, they were to come here for admission as a State, I, for one, would not vote for it. It would be ridiculous; it would be farcical; it would bring into contempt the grave matter of forming commonwealths as sovereign members of this glorious Union. She has no population, in sufficient numbers, morally capable of self-government; nor will she have, for many years to come, such a population as will make it proper to admit her as a State. And yet the plan of the president is to leave this military government under this lieutenant-colonel in full operation, declaring, as he does, in opposition to evidence, that they have a very good government there.

But what sort of a government does this lieutenant-colonel, placed over them, administer to his subjects? Why, I suppose, one of the greatest and first duties of government is to give protection to the people, to give defense to the territory which he governs, and to repel invasion from the

limits of the country. And how does this military commander, acting as it is said under the authority of the Secretary of War, behave upon the first approach of an invasion? While commissioners are sent there as pioneers in the work of bringing all that part of New Mexico on this side of the Rio Del Norte under the authority of Texas, as the territory of Texas, what does this military government do, or propose to do, to protect those people and repel invasion, and to protect their domain? He says he means to be neutral, and has instructions from head-quarters to be neutral, in this contest between the people of Santa Fé or New Mexico and Texas! The governor of this people, who are opposed to the jurisdiction of Texas, says he means to take no part with those whom he governs, but to leave them to fight it out as well as they can with the power of Texas! What American can say that under the circumstances, this course is justifiable? And what will become of the sacred obligations of the treaty of Hidalgo? Of all the honorable distinctions which characterize man in his social and aggregate, or individual character, that of good faith, of the honorable fulfillment of obligations, and the observance of contracts in private life, and of treaties in public life, is one which commends itself most to the approbation of enlightened mankind. Here we have a provision in this treaty, staring us in the face, requiring us to extend the protection of government to the people of Utah and New Mexico. We are told we may safely—it is not said, I admit, in terms, but it is in effect—we may withdraw from the fulfillment of our obligations, and leave this people to themselves, to work out their own happiness and salvation in such way as they can!

In what circumstances will this country be, if Congress adjourns without a settlement of this boundary question, and without establishing territorial governments for Utah and New Mexico? In what condition would the people of New Mexico be, east of the Rio del Norte, in their conflict with Texas? Sir, I need not remind you of what every body knows—of the settled dislike, the insuperable antipathy existing on the part of the people of New Mexico toward Texas, denouncing and denying her authority, contravening the existence of her laws, and ready, if they had the power to do it, to resist her claim of jurisdiction to the last extremity. And yet they are to be left to take care of themselves! They have got a government good enough for them!

Mr. President, that is not my conception of my duty as an American legislator. My duty tells me to perform what we have promised to perform; my duty tells me to extend to this people in Utah and New Mexico the benefits of that supreme authority residing in the city of Mexico which they had when they constituted a part of the republic of Mexico, but which, when they came to us, we promised to extend to them from Washington, on our part. That is my conception of duty, and I will undertake to perform it, if I can. If I can not do it, on account of the Wilmot proviso, or if, as the result of any other obstacle that may be thrown in the way, I can not accomplish what I deem my duty, I shall stand acquitted

in the sight of God and my own conscience; I shall be irreproachable as to any deliberate neglect, even if I fail in the attempt to perform my duty.

I will close this part of what I have to say by grouping, comparing, and contrasting the features of the respective plans of the executive and the committee, which I shall be glad if the reporters will publish in parallel columns:

The president's plan proposes an adjustment of only one of the five subjects which agitate and divide the country.	The committee's plan recommends an amicable settlement of all five of them.
The president's plan proposes the admission of California as a State.	That of the committee also proposes the admission of California as a State.
He proposes non-intervention as to slavery.	They also propose non-intervention as to slavery.
But he proposes, further, non-intervention in the establishment of territorial governments; that is to say, that we shall neglect to execute the obligation of the United States in the treaty of Hidalgo; fail to govern those whom we are bound to govern; leave them without the protection of the civil authority of any general government; leave Utah without any government at all, but that which the Mormons may institute; and leave New Mexico under the military government of a lieutenant-colonel.	They propose action and intervention by the establishment of civil government for the Territories, in conformity with treaty and constitutional obligations; to give the superintending and controlling power of our general government, in place of that of Mexico, which they have lost; and to substitute a civil instead of that military government which declares it will assume an attitude of neutrality in the boundary contest between New Mexico and Texas.
His plan fails to establish the limits of New Mexico east of the Rio Grande, and would expose the people who inhabit it to civil war, already threatened, with Texas.	Theirs proposes a settlement of the boundary question, and, being settled, a civil war with Texas would be averted.
He proposes no adjustment of the fugitive slave subject.	They offer amendments, which will make the recovery of fugitives more effectual, and at the same time, it is believed, will be generally satisfactory to the North.
He proposes no arrangement of the subject of slavery or the slave-trade in the District of Columbia.	They propose to interdict the slave-trade in the District, and to leave slavery there undisturbed.
Thus, of the five subjects of disturbance and agitation—to wit: California, territorial governments, the boundary question with Texas, the fugitive bill, and the subject of slavery in the District—	They propose to adjust all five of them on a basis which, it is confidently believed, is just, fair, and honorable, and will be satisfactory to the people of the United States.

His plan settles but one, leaving the other four unadjusted, to inflame and exasperate the public mind, I fear, more than ever.	They offer the olive branch of peace, harmony, and tranquillity.
Under his plan, one party, flushed with success in the admission of California alone, will contend, with new hopes and fresh vigor, for the application of the Wilmot proviso to all the remaining territory; while the other party, provoked and chagrined by obtaining no concession whatever, may be urged and animated to extreme and greater lengths than have been yet manifested.	Under their plan, all questions being settled in a spirit of mutual concession and compromise, there will be general acquiescence, if not satisfaction; and the whole country will enjoy once more the blessings of domestic peace, concord, and reconciliation.

While the president's plan is confined to a single measure, leaving the governments of Utah and New Mexico unprovided for, and the boundary between Texas and New Mexico unsettled, another, and one of the most irritating questions, is left by him, without any recommendation or any provision, to harass and exasperate the country.

He fails to recommend any plan for the settlement of the important and vexatious subject of fugitive slaves. He proposes no plan of settlement of the agitating questions which arise out of this subject. I will repeat, let him who can stand up here and tell the country, and satisfy his own conscience—when the whole country is calling out for peace, peace, peace; when it is imploring its rulers above and its rulers below to bring once more to this agitated and distracted people some broad and comprehensive scheme of healing, and to settle all these questions which agitate this afflicted people—let any man who can, not in the public press, but in the Senate of the United States, stand up and show that the plan which is proposed by the executive authority is such a one as is demanded by the necessities of the case and the condition of the country. I should be glad to hear that man. Ay, Mr. President, I wish I had the mental power commensurate with my fervent wishes for the adjustment of these unhappy questions—commensurate to urge upon you and upon the country forbearance, conciliation, the surrender of extreme opinions, the avoidance of attempting impossibilities.

Sir, I know there is a floating idea in the southern mind, such as we have heard before, of the necessity of an equilibrium of power between the two sections of the Union—of a balancing authority. However desirable such a state of political arrangement might be, we all know it is utterly impracticable. We all know that the rapid growth and unparalleled progress of the northern portion of this country is such that it is impossible for the South to keep pace with it; and unless the order of all republics shall be reversed, and the majority shall be governed by the minority the

equilibrium is unattainable. But, sir, because there is not and can not be, and in the nature of things it is impossible that there should be, this equilibrium of power between the two sections of this country, does it therefore follow that the southern portion is in danger with respect to that great institution which exists there, and is cherished with so much solicitude? I think not; I believe not. All apprehensions of danger are founded on flagrant abuses of power; and the possibility of such abuses would prevent all investment of power, since no human power is free from the danger of abuse. But what are the securities for the maintenance of southern rights, connected with that peculiar institution? In the first place, there is that sense of truth, that sense of justice, which appertains to enlightened man, to Christian man. In the next place, there is the Constitution of the United States, with the oath which all take to abide by that Constitution. Next, there is a necessity for the concurrence of both branches of Congress before any act of legislation, inflicting a wrong upon that southern portion of the country, could take place. Then there is the veto of the President of the United States, applicable to any unconstitutional legislation which might take place in reference to that institution. Last of all, with regard to peaceful and civil remedies, there is the Supreme Court of the United States, ready to pronounce the annullment of any unconstitutional law which might unconstitutionally impair such right; and there is also a sense of responsibility on the part of senators and representatives to their constituents. But last, though I trust in God the occasion for its exercise will never arise, there is that right of resort to arms, and to make forcible resistance when oppression and tyranny become insupportable.

Nor is this great interest of the South, this institution of slavery, the only one to be affected by the fact that it is in a minority. Is it peculiar to that interest? No, sir. How is it with the fishing interest? How with the navigating interest? They are both greatly in the minority. How is it with the manufacturing interest? In the minority. How is it with the commercial interest? In the minority. In short, without continuing the enumeration, every interest in this country is in the minority, except that great and all-pervading interest of agriculture, which extends from one end of the country to the other. We must be reconciled to the condition which is inevitable. There is all reasonable security against any abuses which may be inflicted in the progress of events, which you can no more arrest than you can seize and hold the beams which are poured forth from that great luminary of the system of which we compose a part, or than you can stop, in its onward course, the flowing of the Mississippi river, and compel it to turn back to its sources in the Rocky and Alleghany mountains. It is utterly vain to suppose you can acquire that equilibrium of which we have heard so much between the slaveholding and the non-slaveholding portions of the Union. It is not necessary, I hope; it is not necessary, I believe; but, whether it is or not, it is unattainable, by the operation of causes beyond all human or earthly

control. And to oppose the immutable and irrevocable laws of population and of nature is equivalent to a demand for the severance of the Union.

I conclude by repeating that here are five wounds which, by the committee of compromise, are proposed to be closed. Sir, I know what may be said. I know it will be said that agitators will, even after the passage of all these measures, continue to agitate; that the two extremes will still cry out for their respective favorite measures; that the Wilmot proviso, although territorial governments will be established, will be pressed, to be added by a supplementary act, or to be incorporated in the Constitutions which these Territories may establish. I know it may be urged—indeed, I have heard it stated on this floor—"Pass all your measures, and we will cry out for repeal." I know something, I think, of the nature of man. I know something of the nature of my own countrymen. I speak, also, with the authority and with the aid of history. At the time of the memorable Missouri compromise, as at this—and I have been unable to determine in my own mind whether more solicitude and anxiety existed then than now—the whole country was in an uproar, on the one side, for the admission of Missouri, and, on the other, for her exclusion. Every legislative body throughout the country—I believe there were twenty-four then—had denounced or approved the measure of the admission of Missouri. The measure was finally carried by a small majority; only six in the House of Representatives, where the great struggle—where the long-continued exertion—was carried on. And what were the consequences—the tranquillizing consequences—which ensued throughout this distracted country? The act was everywhere received with joy, and exultation, and triumph; and the man who would have dared to interrupt the universal, and deep-felt, and all-pervading harmony which prevailed throughout the country, in consequence of that adjustment, would have stood rebuked, and repudiated, and reproached by the indignant voice of his countrymen. And I venture to say, if this measure of compromise goes to the country with all the high sanctions which it may carry—sanctions of both Houses of Congress, and of the executive, and of the great body of the American people—to a country bleeding at every pore—to a country imploring us to settle their difficulties, and give once more peace and happiness to them—I venture to say that the agitation will be at an end, though a few may croak and halloo as they please. There are a few miserable men who live upon agitation—men who are never satisfied until they can place themselves at the head of a little clique of agitators, and, fastening them to their tails, go to the democratic party and say, "Take me—I am a good democrat, and I will bring to you this capital which I have, and insure your success;" or go to the whig party and say, "Take this little balancing power which I possess, and I will enable your party to triumph over their adversaries." I venture to say they will be hushed into silence, by the indignation they will meet everywhere, in their vain and

futile attempt to prolong that agitation which has threatened this country with the most direful calamity which, in all the dispensations of God, could befall it.

Sir, I am done. I would say much more, but I can not longer trespass upon your time. I did not expect to have said so much, and my physical powers will not permit me to say more.

MR. CLAY AND MR. SOULÉ—A SKIRMISH.

IN SENATE, MAY 24, 1850.

[In the great debate on the Compromise of 1850, there were frequent skirmishes between Mr. Clay and his opponents, of which we have given very few specimens, as they generally relate to amendments and side issues. The following, however, between Mr. Clay and Mr. Soulé, we have thought might be interesting, although it bears on no great question.]

Mr. Clay. Will the senator from Louisiana allow me one word? I do not wish to interfere with the senator if he wishes to avail himself of an opportunity of replying, but I desire an explanation from the senator from Louisiana who has just taken his seat. I understood the senator to say that the committee had held up to the eye one thing, intending at the same time another and a different thing—intending to cover the question with a "drapery" or "trickery," I did not hear the precise expression, but I thought it was one or other of these words.

Mr. Soulé. Oh, no; the senator from Kentucky is mistaken.

Mr. Clay. Well, then, I want to know what the senator did say?

Mr. Soulé. The honorable senator gives to my language a meaning which I had not intended it should convey. Speaking of the measures in progress of debate, and commenting upon them, I said, indeed, that "they spoke to the eye what they meant not to the sense;" intimating thereby that they were so worded that a careless reader might be led to imagine that they imported something which, in fact, they did not import. I did by no means intend imputing to the committee a deliberate design to impart to the measures which they recommended, and with a view to mislead, the duplex meaning which I thought I discovered in them; I intended only to signify that such would be the effect of the phraseology which had been adopted, and that it would unavoidably be misapprehended. That such would be the case is most clearly shown in the fact, now apparent to all of us, that those who concurred in the bill are still in disagreement as to the legal bearing of some of its most important provisions. Besides, from the manner in which I have conducted my humble share in this important discussion, I had hoped I would have been spared the misapprehension that I had designed any thing that was unkind or disrespectful to the honorable senator and his colleagues.

Mr. Clay. Mr. President, I certainly felt gratified by the very unmerited compliment which the honorable senator chose to pay me personally; but that does not satisfy me if, as I supposed, he intended to cast reflections on the motives of the committee by intimating that it was their purpose to practice any deception toward the Senate.

Mr. Soulé. Truly, sir, the honorable senator bears down hard upon me; for, even supposing that any unseemly expression had escaped my lips, ought I not to have met at his hands somewhat more of indulgence, and I might say of strict justice, considering that I was wrestling with the peculiarities of a language not my own, whose vocabulary is so apt to rebel against my best intentions? I questioned the motives of no one. I believe them good, and do not doubt at all the purposes of the committee were most patriotic and honorable.

Mr. Clay. I am satisfied. As the chairman of the committee, and as one of the committee, I certainly would not have allowed, without suitable explanation, any remarks reflecting upon the purposes or intentions of that committee.

Sir, I should be glad, if time permitted, to make a reply to the honorable senator, but I shall have other occasions to do so. But will he and the Senate allow me for a few moments only to make one or two observations?

Now, sir, what is the course of the honorable senator with respect to these resolutions of mine, and the report of the committee? The senator takes them up and compares them together. *Cui bono?* The resolutions were the resolutions of an individual; the report of the committee is the report of an aggregate number of gentlemen sent out for the purpose of considering these subjects. To bring, therefore, the report to the test of the resolutions is to suppose that I, who was alone responsible as the author of these resolutions, constituted the committee of thirteen to act upon the whole of the subject. He says that in my resolutions the South was promised suitable limits to California. Well, sir, the committee have said that the limits of California as proposed are suitable limits, and I never intended to exclude the consideration of the limits which California took for herself.

But I do not mean to-day to go into the subject, except to make one additional observation.

Sir, the senator is not satisfied with the repudiation in the bill of the Wilmot proviso. No, sir, it is not there, and all that the South has been struggling for for years has been to avoid its being put there. But he wants more. He wants an argument against it; he wants it denounced as unconstitutional. Now, let me put this case. The referees are sent out to make a decision upon a case referred to them. Although they agree in the decision, each having his peculiar reasons, but all uniting in the conclusion, yet if they do not agree in the premises, and in the arguments, according to the doctrine of the senator their award is worth nothing.

Sir, the senator tells us that he is for compromise and for the Union, although I was sorry to hear him concluding his speech by saying that he did not consider disunion so great a calamity as others did.

Several senators around Mr. Clay. "No, no;" "he never said so;" "you are mistaken."

MR. SOULÉ. Will the honorable senator excuse me for interrupting him; but I must say, distinctly, that I never said any thing of the kind. The senator does me injustice. I most emphatically deny having ever said any thing of the kind.

MR. CLAY. I understood the senator most distinctly to say that he did not see any thing in the calamities which would result from a dissolution of the Union.

Several senators. "No, no." "You are wrong; he did not say so."

MR. SOULÉ. No, sir, that could not be. I said nothing that could have conveyed any such meaning. On the contrary, I most unequivocally declared that I was not of those who would stake the perpetuity of the Union upon the issues before us, should it be possible to avert it by any sacrifices we could make without dishonor, although I apprehend they might seriously endanger it.

MR. CLAY. I am very happy to hear it.

MR. SOULÉ. There could have been no mistake—no misunderstanding. Every senator here, I feel assured, understood me differently. What I did say is this: that if the South was to be crushed to the ground, at least she should be suffered to fall with dignity, and so as to command the respect, and not to attract the insulting pity of her adversaries. [Applause.]

MR. CLAY. I am, indeed, happy to hear these sentiments from the honorable senator, but he will allow me to say, that although he may not be desirous—and I am sure he is not—of a dissolution of the Union, the course which he may happen to take may possibly lead to such a consequence at no distant day. He said that he did not like this compromise. He complained that while he was restricting himself to the subject under debate, he had been misrepresented by me as having traveled over the whole compromise. Now, I appeal to the Senate whether the senator did not take up every topic in the report and comment upon, and criticise, and reject it. I hope, Mr. President, that, when this measure, which has been before the committee, shall have received all the improvements of which it is capable, of which nobody will be more desirous than the committee, the senator may yet find it in his power to concur with the committee in their efforts to settle those questions.

MR. SOULÉ. I should be most happy if I am able to do so.

MR. CLAY. I have already said that at this hour, and for other reasons, I will not detain the Senate now, especially as the senator from Virginia (Mr. Mason), having obtained the floor, desires to speak. I forbear, therefore, making any further observations until some future occasion.

ON THE TITLE OF TEXAS.

IN SENATE, JUNE 7, AND JUNE 13, 1850.

[THE State of Texas claimed the Rio del Norte as its western boundary, which comprehended the largest and most desirable part of New Mexico. One of the compromises of 1850, was the award of ten millions of dollars to Texas for resigning its claims to that part of New Mexico which lies east of the Del Norte. The following remarks are upon the same general subject as those of the preceding speech.]

June 7. In reply to Mr. Rusk, Mr. Clay said.

I will answer the question in a very few words. By referring to the controversy between Rhode Island and Massachusetts, the senator from Texas will see how this matter can be brought before the Supreme Court. The Constitution of the United States, as it originally stood, allowed citizens of the United States or foreign subjects to bring suit against the States. The Constitution was afterward amended so as to deprive the judiciary of the United States of any power to exercise jurisdiction over a suit brought by a foreign subject or by a private citizen against a State. There, amendment to the Constitution stops. Before I proceed more directly to answer the question of the honorable senator from Texas, allow me to advert to that portion of his argument in which he says, that, as Texas has been admitted as a State, there is no power to curtail her limits. But the question is, what is admitted? What was the territory admitted? I admit that where the limits of a State are acknowledged and indisputable, no power exists to take any portion of its territory from that State. But the question of what was the acknowledged, ascertained, and indisputable boundary, is a totally different question.

Now, I will tell the senator how the question can be brought before the Supreme Court. Let New Mexico be admitted as a State. She will then be a State, a peer, and equal with Texas. New Mexico, then being a State, the question would arise as to the title to this territory between New Mexico, as the new State, and Texas, the prior State. That question can be brought before the Supreme Court by a bill in equity, the mode of proceeding which is generally carried on. That was the mode of proceeding adopted in the dispute between New York and New Jersey, and between Illinois and some other State.

While up, I would say that I have purposely abstained from all discussion upon the question of the title of Texas. I certainly did not mean to say that there was nothing in that title. I know that there are many plausible acts of government, and acts of the military and civil authority, which give color to that title. It may, perhaps, give a valid title. I, however, abstained from discussion on that point. I will repeat that it was not to contest the title ofTexas that the proposition offered by the committee has been brought forward. If the committee did not think there was something in her title, they would not propose a large and liberal equivalent to Texas for the surrender of whatever title she has beyond El Paso. If I did not conceive that she had some sort of title, I should not justify myself in offering her such a large equivalent for the surrender of her title. I suppose that she has a title. I have no doubt that it is the belief of the honorable senator, and of a large portion of the people of the United States, that she has a good title. If Texas had not any sort of title at all, how could we propose an equivalent for her title? I do not believe that a member of this body or a citizen of this country, is more anxious for the settlement of this unhappy case than my worthy friend from Texas. I know he is willing to make great sacrifices in order to bring about a good state of feeling between the two sections of the Union. This explanation has been made by me, to prevent misapprehension. The South has said that this is giving her nothing, and giving the North every thing. I have shown that there are grounds for mutual concession, and that there was a mutual concession, and that, therefore, neither party has a right to complain.

I shall be sorry to see the question entering into that boundless discussion—almost as boundless as the territory claimed by Texas herself—of what is the exact state of the title of Texas. I do not think it necessary to go into that now. I would say, however, that the honorable senator from Texas has, on this occasion, as he has on every occasion, shown that he will support what he believes to be the just rights of his State, at every hazard, and to the last extremity.

I beg pardon for having trespassed thus long on the patience of the Senate. I merely rose at first for the purpose of showing how this question might be brought before the Supreme Court.

Again, same day, in reply to Mr. Davis of Mississippi, Mr. Clay said:

I certainly do not rise for any purpose of discussing the title of Texas to all the country on this side the Rio Grande, but to make a few observations in reference to what fell from the senator from Illinois. The senator from Illinois suggests the propriety of making the eastern limit of New Mexico the ridge which separates the waters of the Mississippi on the one hand from those of the Rio Grande on the other. Now, in the committee of thirteen I proposed myself substantially that limit. I proposed that we should run the eastern line of New Mexico by beginning at El Paso and thence running to the uppermost source of the Red river, and thence to

the forty-second degree of north latitude, or the ancient line between the United States and New Mexico. That would have assigned to New Mexico all of what was originally considered as a part of New Mexico, and left east of that line and south of it down toward Texas, an extent of territory, according to my recollection of the map, of about two thirds of what is proposed to be ceded by Texas to the United States in the proposition before the Senate. I proposed that line in the committee, beginning at El Paso, which is the ancient limit of New Mexico, and running from El Paso to the Red river, and thence to the forty-second degree, leaving about two thirds of the present territory comprehended in the proposed cession by Texas to the United States. The committee, upon full consideration, thought it best to run a line in the manner proposed, beginning twenty miles up the Rio Grande by El Paso and to the north-west angle of the Indian country; and it was proposed and recommended to the Senate.

Now, sir, I think there is a good deal in the suggestion of enlarging the Indian Territory, by making to it an addition from what would be ceded by Texas, if this bill pass—if that two thirds or one half, be it more or less, be taken from her, leaving what were regarded her ancient limits; for I need not tell gentlemen familiar with the subject that with respect to the boundaries of provinces, it was not the habit of Spain to demark all their external lines; they were designated generally by their principal cities, or places which constituted their center, and the outward lines were not demarked by the authority of Spain or Mexico. But El Paso, according to an ancient document I have seen, of nearly two hundred years' standing, as well as by the treaty of Guadalupe Hidalgo, was one of the limits of New Mexico. My proposition, I repeat, was to begin at El Paso, that ancient limit of New Mexico, and run to the head of the Red river, and thence to the forty-second degree of north latitude. But does not the senator from Illinois perceive that if the proposition made by the committee should be acceded to by Texas, it will always be in the power of the government of the United States to take such part of New Mexico as it pleases and assign it to the Indians there?

Now upon the other supposition. The propositions of the senator from Alabama are two—first to confirm the title of Texas from the mouth to the source of the Rio Grande, and to declare it to be a part of Texas. Well, it is known that with a large number of the members of this body it is impossible to do that.

The next proposition is this: considering Texas as undertaking to remove the Indians and place them north of the line of the thirty-fourth parallel of latitude, still within Texas; how can we do that? By what authority can we do it?

Mr. Clemens. The senator from Kentucky misunderstands the amendment.

Mr. Clay. Ah! that may be; I have, however, the printed amendment before me.

Mr. Clemens. But it has been modified. It proposes to remove the Indians to such part of the Territory as the Legislature of Texas may select.

Mr. Clay. It was the printed amendment I had before me. It is to be done with the consent of Texas. Well, I shall not quarrel with that; but the question is, whether it is not better to take the line proposed by the committee, in which will be contained the power of the United States to take any portion of it, from the head-waters of the Arkansas river—for really, sir, it is a country not worth disputing about, only fit for Indians to hunt upon—take it any time and assign it to the Indians.

But, sir, allow me to express another sentiment, and to make a request. Let us take a vote upon the amendment now proposed. Let it be adopted or voted down, according as the majority shall determine. If it is rejected, it will be competent for the senator from Illinois to make the proposition he has suggested. Voting this proposition down will not prevent that proposition from being made. Let us take a vote upon this, and its adoption or rejection will not prevent us from making any other proposition.

June 13, Mr. Clay said:

Mr. President, I hope the blank will not be now filled, and that any proposition to that effect will be voted down. The committee had this subject of filling the blank before it at the time of arranging this measure. There were several considerations which induced the committee to forbear to recommend any specific sum to the Senate. One of them was, that if the committee did propose any specific sum, it might lead to stock speculations; and again, the committee could not know what extent of territory Texas would yield her claim to, and whether the line would not be extended above or below El Paso, a greater or less distance. They, therefore, thought that the proper time for filling the blank was that which is the usual time for filling blanks—upon the third reading of the bill; and they left it to the chairman of the committee to propose a suitable sum after the bill was perfected, and when it had arrived at the stage of being put upon its passage, when the whole subject will be open to discussion and full consideration. I hope, therefore, that the senator from Alabama will not persevere in his motion, and if he perseveres in it, I trust that the Senate will vote down the motion, for the present, reserving the filling of the blank, as the committee wish, to be done at the usual and proper time—the third reading of the bill.

But, sir, while I am up, feeble as I am, I feel constrained by the connection which I have with this subject, and with the committee, to make a few observations in reply to the gentleman who sits in the vacant seat (Mr. Seward). Sir, the senator from New York began with an assertion which I utterly deny. He began with an assertion that the effort to get these measures passed had arrested the progress of the public business, and prevented Congress from discharging its duties. Now, let us look a little into this matter. There has been no compromise measure before the other

branch of Congress; how, then, I ask him, has the proposition for compromise in this branch of Congress interrupted the public business in the other? But, so far from its being true that the committee, or the majority of the Senate, are liable to the charge of interrupting the progress of the public business, the senator himself, and those who co-operate with him, are the true and legitimate cause of the interruption of the public business in this branch of Congress. And how, sir? How? I will tell you how; and the country shall know how it is. I find by a memorandum which has been placed in my hands, that on the 13th of February the senator from Mississippi (Mr. Foote) made his motion for the appointment of a committee of thirteen. If the committee had been appointed according to the ordinary course of legislative proceeding; if it had been appointed, as it ought to have been, for such an object as national reconciliation, without opposition; if, as an experiment to settle the distraction of the country, every senator had voted for it, as, in my humble opinion, without wishing to cast reproach upon any one, they ought to have done, three months ago we might have had a report and a definitive settlement of the question. The minority, who perseveringly, from first to last, resisted the appointment of the committee, and after the committee was appointed, resisted action upon the report of the committee—they (I charge them before the country, and the senator from New York, who sits on my right hand, among the number) are the true cause of the interruption of the public business—not of Congress, but of this branch of Congress. How often did the Senate, by a majority decisive and conclusive, express itself in favor of this committee? How often were instructions and other dilatory modes of delay resorted to, for the purpose of thwarting the action of the majority?

I should be justified in applying a term which I forbear to apply to the course of this minority, which, from the beginning to the end, has been the cause of the impediment of the public business in this branch of Congress. The gentlemen who were not satisfied with the expression of the opinion of the majority once, twice, thrice, and four times, but who resorted to every possible means of thwarting the declared and known wish of the majority, I charge them with being the cause of the obstruction, if there has been any, in the dispatch of the public business in this branch of Congress. Sir, what have we been doing this week—this precious week, when the whole country is looking on with undivided anxiety for some definite conclusion of this question, and when the other House also may be naturally anxious to hear what is the opinion of the accordant branch of the Legislature? On the first day of this very precious week, a motion was made on which to hang speeches, and three days after the motion was made, and when the speeches have been delivered, a withdrawal takes place of the proposition. And yet we, the majority, are to be charged with impeding the progress of the public business! Sir, a more unjust, a more unmerited, a more unfounded charge was never preferred against the majority of any body

upon earth. The delay does not come from us. Why, sir, an attempt was made to lose a whole week after the return from the funeral ceremonies of one of our colleagues. Yes; an attempt was made, and made apparently too, by some concert, to lose an entire week. To postpone, to delay, to impede, to procrastinate, has been the policy of the minority in this body, and yet they rise up here and charge us who have been anxious for speed—for the speedy appointment of the committee, for a speedy report, and speedy action on that report—with causing delay. As little delay took place in the committee as was proper on a subject of such vast complication and magnitude. There was a delay of about —— weeks in the committee; and since the report of that committee, it has been our anxious wish, and our most ardent desire, to come to a final conclusion upon the important questions which are involved in this report. What has been done by that committee, and by myself as an humble member of it? We have taxed our physical powers, and required the meeting of the daily sessions to be fixed an hour in anticipation, and we sat out all the working days last week, in order to arrive at some definite conclusion, and yet we are to be charged with delaying the public business. Sir, I answer for my friends of the majority, I answer for the committee, that they will be ready and willing, if they are permitted by the minority to do it, to come to a final decision in less than half a dozen days from this time. Sir, I felt the horrible injustice of the unfounded imputation of delay to this committee with such a degree of sensibility, that I forgot the weak and feeble, and, I might almost add, the trembling limbs with which I have come to this body to-day.

But now for the amendment, to strike out which is suspended only, as I understand it, until the amendment to fill up the blank, now immediately under consideration, is disposed of. What is that amendment? It is proposed by the amendment of the senator from Tennessee [Mr. Turney] to strike out all that relates to a compromise of the title of Texas to the country of New Mexico, or an equivalent which is proposed to be offered to her, and to leave that question as it now is. In other words, the proposition of the committee is to preserve new Mexico entire, with a slight exception, to which I will presently pay some attention; to detach it from Texas, to define its limits, give it the benefit of a civil government, and put it into a position to become a State, when the amount and the intelligence of its population shall authorize it to be formed into a State. That is the proposition of the committee. Now, what is the course proposed by the senator from New York, and other northern men, who have so much at heart the preservation of New Mexico, detached and separated from Texas? The senator tells us that he is against the whole bill, and therefore against any part of the bill. Well, sir, if he be against the whole bill, I put it to him and to others, if the bill is to pass, would you not rather that it should pass with the preservation of New Mexico and the adjustment of the boundary of Texas than without it? Now, if the amendment of the senator from

Tennessee prevails, what is the consequence? New Mexico is left to the claim of Texas. The learned senator is of opinion that it is worthless; that she has no claim at all. Well, sir, I should think that my friend here to my left (Mr. Berrien), and the eminent statesman who has just resumed his seat (Mr. Webster), and who, without expressing a positive opinion with regard to the title that Texas has, said that the inclination of his mind was toward the validity of her title to the extent of her claim—

Mr. Webster. No, no; I said the reverse.

Mr. Clay. Well, then, I misunderstood him; but at least half a dozen senators on the other side of the Chamber, of the first eminence in the country—the senator from Mississippi (Mr. Davis), I believe the senator from South Carolina (Mr. Butler) and others—have expressed their opinion in favor of the claim of Texas.

Mr. Webster. Will my friend allow me to explain?

Mr. Clay. Certainly; I yield the floor.

Mr. Webster. What I said was, that I had heard it admitted by the senator from New Jersey (Mr. Dayton), a day or two ago, that he did not mean to deny that Texas had some claim or plausible pretense of a claim to some territory west of the Nueces. And then I said, sir, that that being so, or if that be so, then it becomes very important to know where that claim, or pretense of a claim, is bounded northerly; for Texas claims not only up to the Rio del Norte, but all on the eastern side of the Rio del Norte; and if there be a supposition or admission that she owns a portion of the territory west of the Nueces and east of the Rio del Norte, then, certainly, there is a question for decision.

Mr. Clay. Well, now, sir, the gentleman at my right (Mr. Seward) and those who may happen to vote with him, favor what? The non-adjustment of the question of title between Texas and New Mexico, leaving the question open to all the possible consequences which may ensue—to civil war and to the continuance of an anomalous military authority. For although the honorable senator from New York says that there is political connection between the government of the United States and New Mexico, what is it? What is the political connection at this moment? Has Congress any authority over it? Is there any power but that which is exerted through the executive government and the lieutenant-colonel who is at the head of the government there, the grounds for the exercise of which powers, as I understand them, are the necessity and exigency of the case, and the absence of all law and constitutional authority on the part of the executive; but still the power is exercised, because Congress has failed to exercise its authority. My friend from Massachusetts stated what I should be glad to hear any gentleman make an answer to. It is this: Suppose that New Mexico forms a State government and comes here to be admitted as a State: what is to be admitted, the question of title between her and Texas remaining unsettled? How is a Constitution to be formed for New Mexico? West of the Rio del Norte, I understand, from information upon which

I can rely, there are not half a dozen American citizens, but about three thousand Mexicans and Indians. Now, how is the work of forming a State Constitution to be executed by New Mexico? Will the people of Santa Fé be allowed to vote? How can they, unless you define the territorial line between Texas and New Mexico? But, sir, I want to push the argument one step beyond my friend from Massachusetts, and I earnestly entreat the attention of the Senate to the case which I am about to suppose. Suppose that New Mexico, embracing Santa Fé and all this side of the Rio del Norte, should form a government and come here to be admitted as a State, and you admit her: very well, what then have you admitted? You have admitted New Mexico east and west of the Rio del Norte, and of course the population east and west of the Rio del Norte, for I apprehend that she could not form a State without the population east of the Rio del Norte. Well, suppose that after her admission as a State, a suit is instituted before the Supreme Court to decide upon the limits between her and Texas, and the Supreme Court decides that all east of the Rio del Norte belongs to Texas: what becomes of your New Mexican State then? Where is she? Why, sir, she has lost all her territory and all the population which could constitute any ground for her admission as a State. It will not do for me to hear from any learned senator, however eminent he may be as a jurist, that in his opinion the Supreme Court can make no such decision. The uncertainty of the law is proverbial. I put it to any senator to answer the case which I have supposed. Where, then, would be the State of New Mexico, which we had admitted into the Union? She would be a State without any population, a State without any habitable territory, or scarcely any, west of the Rio del Norte. The senator from New York complains that there is a little slice taken off from New Mexico, running eastwardly from a point twenty miles above El Paso to the south-west angle of the Indian country. Well, sir, it is only a triangle, embracing a very small amount of territory—indeed, of no consequence, or at most of very little consequence. Some portion of it on the Rio del Norte is of some value, and in lieu of that, New Mexico will get eastward of her easterly boundary, extending to the Indian country, more territory than belongs to her legitimately. But what is the senator's remedy for this slight curtailment of the limits of New Mexico? He proposes to throw the whole overboard; in other words, to strike this section out of the bill, and leave New Mexico to the inevitable and irreversible fate of becoming a part of Texas, in process of time, if we do not make some such settlement as that now proposed.

Mr. President, I must now yield to the necessity imposed upon me by my physical condition. I should like to have made some other observations, but I must beg to be excused now.

[In the same debate of June 13, we find the following:]

Mr. President, I wish to state that I thought once or twice of calling the

senator from Missouri to order. I believe it is out of order to read a bill three times on the same day without unanimous consent. I think the rule ought to extend to a speech. The senator read my speech three times, which would have been out of order if the same rule applied to speeches that applies to bills. One reading might have answered the purpose of the honorable senator. He read from the "Republic" of yesterday, and I suppose that that may be considered as one of his readings.

Now, with respect to lecturing the Senate, it is an office which I have never sought to fill. There are many reasons why I do not like to do it. In giving a lecture, the person lecturing ought to have some ability to impart instruction, and the person to whom it is addressed should have the capacity of receiving it. In this case, as between the senator and myself, both of these conditions are wanting. (Laughter.) Therefore I do not aspire to the office of a lecturer.

Now, how did this dispute as to who caused the delay arise? Did I begin it? Did not the senator from New York (Mr. Seward), one of the co-operators of the senator from Missouri, begin it? Was I doing any thing more than repelling an unfounded charge made against a majority of the Committee of Thirteen? This discussion did not originate with me.

I have received an intimation as to the former position of the senator from Missouri, the correctness of which I do not know any thing about; but the senator himself can say. I have understood that, during the canvass of last summer, the senator from Missouri in his own State denounced the admission of California as an unconstitutional and highly improper measure. I do not assert that he said so, but I have heard he did. If that was the opinion of the senator last summer, the change of opinion in him is certainly quite as remarkable a change as that which he has attributed to me.

Now, as to another subject to which the senator has adverted—the annexation of Texas. If I am not mistaken, he pronounced that the admission of Texas by a resolution of Congress would be unconstitutional. And yet the honorable senator changed his opinion on that point afterward. He himself introduced the alternative of annexation by diplomatic arrange ment or by a resolution of Congress, declaring that to admit it by resolution would be unconstitutional. And yet, although the alternative was not embraced by the then president, and although he did not think it proper to employ his diplomatic powers to bring Texas into the Union as Louisiana and Florida had been brought in—by treaty, to be ratified by two thirds of the Senate—the senator changed his opinions and voted for that as entirely constitutional which he before regarded as unconstitutional. I do not mention this with any feelings of reproach. But I ask the senator, if he denounced the admission of California as unconstitutional during the canvass of last summer in Missouri, and has since changed his opinion on that point, and if he changed his opinion with regard to the constitutionality of annexing Texas by resolution, ought he not to have some regard

for those who may find it necessary to change their opinions in regard to some subjects?

Mr. President, at the commencement of this session of Congress, when I heard that California had formed a State Constitution which was to be submitted to Congress in the course of a few weeks, I own that I was for her immediate admission. I regret that it could not be done. If it depended on me it should have been done before this. But I have aimed throughout life to be a practical man, and to give and take, to yield in all cases not involving essential principles. And, sir, do you not know, does not every member of the Senate know, that after two or three weeks had elapsed, after I had ascertained the condition of the two Houses of Congress, I adopted the opinion, upon which I have acted ever since, that the speediest mode of admitting California was by a combination of these several measures? Every senator knows that these were my views; and every senator knows that I expressed them to the Senate; and if the senator from Missouri, instead of confining himself to the reading of a single speech from the "Republic" of yesterday, had looked at other speeches of mine—and he does me honor in reading any of my speeches—he would have seen that I had assigned the causes why I was induced to abandon the ground of the separate admission of California for a combination. He would also have seen that I did it in reference to practical legislation, and the condition of the other House and of this House. There is no great difference of principle involved in the two modes. It is true we have heard a great deal about the dignity of California, and all that. Sir, the most perfect microscopic instrument that ever was made would not enable the best eyes that man was ever blessed with to describe this indignity to California in being associated with other measures.

But I do not mean to dwell on this subject. It is said that the fact that the sum to be paid to Texas for the settlement of her boundary is left a blank by the committee, will leak out and affect speculation. That can not well be, because the committee itself has not absolutely determined on the alternative, and the committee has not absolutely fixed any sum to be paid to Texas. The sum will be determined according to the shape which the bill may finally take. It is impossible, therefore, for any member of the commitee to disclose, if there be, as I am sure there is not, a member of it that would have made such a disclosure, the sum the committee intend ultimately to propose. This is enough on this point, and I will not detain the Senate longer.

Also, June 14, we have the following interesting morceaux:

I hope we shall not adjourn till we get through with this bill, either to take up a carpet, or for any other reason. I believe, if the senator from New Hampshire will waive his motion, we can get through all the amendments, and all that are likely to be proposed, and get at the question of a third reading by Monday. At all events we shall get through some of the amendments, and make some progress. I do not propose—I have too

much respect for the Senate and myself—to impute motives to any one; still it is a fact, whatever may be the purpose, that all these motions come from senators who do not view this bill as the majority of the Senate view it. Still those persons charge this bill with having caused the delay of the business of the body. Every motion of this kind, so far as I remember, has come from those who were opposed to the bill. I hope we shall not adjourn. Sir, if there is a man in Congress, and especially in the Senate, who wants rest and repose, it is the one who happens, I believe, to be the oldest member of this body; and yet I would work on this carpet, or on any other carpet, to accomplish the completion of this bill. Washington surrendered his sword in an uncarpeted room, and yet we must adjourn three days, when the whole country is in a crisis, to take up a carpet which I would prefer to the one which it is proposed to substitute for it. I hope we shall not adjourn till we get through this bill, and then, if members desire it, I will be one of the first to agree to it; and then the carpet can be changed if it is desired. * * *

I am asked how I know that a majority are in favor of this measure. I do not know how the majority will be found on the final passage of the bill; but all the questions hitherto disposed of evince that there is a majority in favor of the bill. But, whichever way the majority happens to be, we know full well which way the senator will vote. We know he is opposed to the bill. The senator from Florida asks how I know we can get through this bill in a week. I will now ask the senator from Florida how he knows we will not get through with this bill in the course of the next week?

Mr. Yulee. I know many members desire to address the Senate, and feel bound to do so.

Mr. Clay. I should suppose that six days—a period in which the universe was made—might admit of a good many speeches being made. I do not know, but I will take the senator at his word, that it will take a month to get through with it. Then there is so much more necessity not to give up a day, or three days, to be spent for the purpose of exchanging a carpet. Why, sir, I do not know how it is, I can not afford to have a great many carpets, and I have been accustomed to a woolen carpet throughout the whole year; and the only change I have made this year was to procure a softer one, and the effect has been that I took cold by the means.

How can we go out to the country and the people—this anxious people—and excuse ourselves for leaving this bill in such a crisis? The senator from Florida talks about what was done at a former session on the subject of a change in the Hall; but when before, in this country, was there ever a question of such deep and vital importance as the one before us at this moment? and yet the senator calls on us, at the very crisis of this question, to adjourn over, first to-morrow, and then from Monday till Thursday of the next week, in order, I repeat it, to change the carpet! Sir, I can

not, according to my sense of duty, vote for such a proposition. I call for the yeas and nays on the motion.

[To the above extracts may be added the two following, delivered in a subsequent debate, July 16, on the boundaries of Taxes.]

The question before the Senate is the proposition made by a senator to amend the bill so as to vary most essentially the line separating New Mexico from Texas. I wish to say, sir, a few words upon that question, but I do not intend to enter into a general reply to the remarks of the senator who introduced this amendment. There are one or two remarks, indeed, which I will notice before I proceed to consider the question of the actual boundary—the southern boundary—of New Mexico.

The senator has indulged in considerable criticism upon the mutual cessions by Texas and the United States, as provided for in the bill before the Senate, and has contended that, according to the language of these reciprocal cessions, the title to the territory mutually ceded is admitted to be in Texas, on the one hand, and in the United States on the other. Mr. President, what was the state of the case? Here was a question of disputed boundary—Texas claiming on the one hand, and the United States on the other—as to the true limits of New Mexico. It is extremely difficult to reconcile the conflicting opinions prevalent on the subject, and among the reproaches which the senator from Missouri, who introduced this amendment, has brought against the committee, is this omission to express any opinion. Why, in the first place, if we had expressed any opinion, it would have been as little respected by the senator, I presume, as he has respected their labors; but what necessity was there to express any opinion as to the title, when the object of the bill was to propose a compromise, an adjustment, a settlement of the controverted question between the parties! None—none whatever. And, sir, I should like to know, in the case of an adjustment of a disputed boundary, where there was a mutual surrender of respective claims by the parties in dispute, what other language should be employed than that criticised by the senator from Missouri? Sir, what is that language? It is that Texas cedes to the United States any right, claim, or title; and the United States, on the other hand, cedes to Texas any right, title, or claim. Well, sir, I think, if you look into all the instances of cession made between the United States and the different States, and especially that of Georgia—the history of which transaction you will remember—where there were mutual claims set up by the United States and by Georgia, you will find that whatever were the rights of Georgia they were ceded to the United States. And what is the operation of these mutual cessions or concessions by the two parties? It operates to transfer the rights, if there be rights, the claims, if there be claims, the pretensions, if there be only pretensions; it transfers, in short, whatever one party has to the other, be it less or more, of title, claim, or pretension. And I think it would embarass any gentleman to sit down and make such a mutual con-

cession or cession between the two parties, to use any other language than that employed by the committee.

Another observation, and I proceed to the consideration of the title. The senator allowed himself yesterday, and I see it deliberately printed in both copies of his speech which I have seen this morning, to use language to this effect:

"The bill is caught *flagrante delicto*—taken in the fact—seized by the throat, and held up to public view—(and here Mr. B. is represented by the reporter as grappling the bill and holding it up)—in the very act of perpetrating its crime, in the very act of auctioneering for votes to pass itself."

Now, sir, with regard to the boa-constrictor struggle between the senator and the bill, the issue of it may be what it pleases; but, sir, I put it to the Senate and to the country whether language such as this is admissible upon the floor of this Senate. "Auctioneering for votes to carry the bill?" Who auctioneered?—the bill, or the Senate, or the committee? If the senator means to say that the committee, or any member of the committee, or that it was the intention of the bill to auctioneer for votes to carry it, I repel the charge as a groundless and unfounded imputation. But, sir, is not such language as this remarkable to be used in a deliberative body? Why, sir, it would be applicable to every case of appropriation of money. It might be said that the object is to bribe, to auctioneer for votes, to purchase votes, in order to carry the appropriation. When I heard that remark I could not help being struck with the bill—which I ask the secretary to read—which the senator himself introduced in the early part of the session. I will beg the secretary to read it.

The secretary read a bill introduced by Mr. Benton, on the 16th of January last, as follows:

"A bill proposing to the State of Texas the reduction of her boundaries, the cession of her exterior territory, and the relinquishment of all her claims upon the United States, for a consideration to be paid her by the United States.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by the said State, in an act passed by her General Assembly, shall be binding and obligatory upon the United States and upon the said State of Texas.

"First, The State of Texas will reduce her boundary on the west to the one hundred and second degree of west longitude, from the meridian of Greenwich; and on the north to the Main or Salt Fork of the Red river, between the parallels of one hundred and one hundred and two degrees of west longitude.

"Second, When the population of said State shall equal or exceed one hundred thousand souls west of the line formed by the ninety-eighth degree of west longitude, and by the river Colorado, from its mouth to its intersection by said parallel, that the State of Texas will further reduce her western boundary to that line; and the part of Texas lying west of that line, as reduced by the first

article of this agreement, shall be and remain a separate State, entitled to immediate admission into the federal Union, on an equal footing with the original States.

"Third, The State of Texas cedes to the United States all her territory exterior to the limits to which she reduces herself by the first article of this agreement.

"Fourth, The State of Texas relinquishes all claim upon the United States for liability for the debts of Texas, and for compensation or indemnity for the surrender to the United States of her ships, ports, arsenals, custom-houses, custom-house revenue, arms, and munitions of war, and public buildings, with their sites, which became the property of the United States at the time of the annexation.

"Fifth, The United States, in consideration of said reduction of boundaries, cession of territory, and relinquishment of claims, will pay to the State of Texas the sum of fifteen millions of dollars, in a stock bearing five per cent. interest, and redeemable at the end of fourteen years, the interest payable half yearly at the treasury of the United States."

That will do, sir. You find that the very same language employed by the committee is used in this bill: "A cession"—"a ceding." But what further, sir? A proposition to Texas to give her $15,000,000 for the cession which is proposed by that bill to be made by her to the United States. Well, now, I wish to know what is the difference in principle between the bill of the senator and the bill reported by the committee? There is a great difference in point of extent of territory; more land is purchased by the bill proposed by the senator, but that is all. In principle they are the same. In both cases it is a cession, or relinquishment, or purchase, as you choose to denominate it, which is proposed by the bill which the senator has introduced, and by the bill which the committee of the Senate have introduced. Now, sir, if it had been possible for me to have made the imputation—utterly impossible it is for me to make it, undoubtedly—that here were $15,000,000 tendered in his bill and to be put forth for the purpose of auctioneering, to obtain votes if possible for the bill, I should like to know how it would have been received by him? Would he not feel, as the committee must feel, if a reproach of this kind had been directed against his bill? And yet, when the committee concur in favor of some sum, not equal to that which the senator proposes by some fifty or one hundred per cent., it is auctioneering for votes to carry the bill, while no such purpose undoubtedly was designed by the senator in offering his bill! I feel ashamed, and it is in some degree a degradation to this body, when any one will get up and suppose any amount of money offered in the shape of an appropriation for legitimate purposes, either for the expenses of government or to buy territory of a foreign power, can be supposed capable of operating on the cupidity of members, either of the Senate or of the House. Who is the senator that is to be purchased or auctioneered for? Who the member of the House? Where is he? We have seen but little evidence of any change of opinion, notwithstanding the temptations supposed to be attached to this ap-

propriation, whatever it may be, as announced in the progress of this bill.

I feel myself called upon to repel, as I do, any charge of the kind, if intended to be made, either against the intention of the bill or against any member of the committee. That committee is known to the country, and I am proud of the association I have had with its members, many of whom have served their country in the highest places of honor abroad and at home. And I think when their names are announced in every quarter of this wide-spread country, their names will carry a vindication of them from any aspersion which may be made against the purity of their motives or purposes, or the purpose of any bill which they have presented. I beg pardon for being withdrawn from really the only question which the amendment ought to have brought up, the question as to what is the boundary of New Mexico and the northern boundary of Texas.

The senator from Missouri contends that it is at the mouth of the Puerco, about three hundred miles below El Paso, upon the Rio Grande. I contend that it is at El Paso, or possibly about a league above it. Now, sir, the senator relies upon maps, to some of which the senator from Texas (Mr. Rusk), has given a full, and I trust satisfactory, answer this morning; and with regard to the maps of Humboldt and General Pike, it is manifest from the maps themselves, as well as from the journals of the travels of American officers, that the sources of information were imperfect, loose, and unsatisfactory. The truth is, as has been remarked before to this body, that with regard to the boundaries of the various provinces and subdivisions of Mexico, whether under the regimé of Spain or of Mexico, there never was a certain demarcation of limits. The exterior limits of its various provinces and subdivisions were scarcely ever marked with any certainty. But I have thought it totally unnecessary to go into any consideration of the maps of Humboldt, Pike, or any other tourist, because I have, and mean to show the Senate, authentic and incontrovertible documents as to the fact of the true line of New Mexico crossing at El Paso, and consequently of the line of Texas being there, supposing New Mexico to constitute no part of Texas. Now, the first document which I have to establish this fact is the copy of a decree made by the Congress of Mexico as far back as the year 1824, and consequently before any question could arise, either on the part of Texas or the United States, with respect to the title.

"DECREE OF THE 27TH JULY, 1824.

"*Demarcation of the territory of the province of Chihuahua.*

"The sovereign constituent Congress of the United Mexican States has decreed that the territory of the province of Chihuahua shall be composed of all that comprised within straight lines drawn from the east to the west of the point of pueblo, called Paso del Norte, on one side, with the jurisdiction which it has always had, and the hacienda of the Rio Florida, on the side of Durango, with its respective *pertinencias*."

Now, sir, here you find of this province of Chihuahua, the line is drawn

through El Paso to the east and the west, and consequently forms the southern boundary of New Mexico. But this is not all. The treaty itself —the treaty of Guadalupe Hidalgo—contains an express allusion to the line of El Paso, as being that which constitutes the southern boundary of New Mexico. Article 5th declares:

"The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch, emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence westwardly, along the whole southern boundary of New Mexico (which runs north of the town called Paso), to its western termination; thence northward, along the western line of New Mexico, until it intersects the first branch of the river Gila (or if it should not intersect any branch of that river, then to the point on said line nearest to such branch, and thence in a direct line to the same); thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific ocean."

The other part of the description of the boundary is inapplicable to the case. But, besides that, we have a corroborative proof of El Paso being the true boundary, furnished by the present military government of New Mexico, among the papers submitted to Congress by the president:

"The latitude of 32° referred to by Major Van Horne, and marking the southern limit of the 9th military department, is nowhere mentioned in the treaty between the United States and Mexico. By a law of Mexico the southern boundary of New Mexico is an east and west line, running on both sides of the Rio Grande, a league, or somewhat less, north of El Paso."—*J. Monroe.*

By a law of Mexico, which is the law, I presume, to which I have referred, the southern boundary of New Mexico is an east and west line, running on both sides of the Rio Grande, a league, or something less, north of El Paso. Now, the way I understand this league came to be regarded as the true point of the line was this: there was a town called El Paso near the pass of the river; it was desirable that the whole of that town, with its suburbs, should be entirely in the lower province, the province of Chihuahua; and, in order to do this and to avoid dividing the town into two parts, throwing one part of it above and the other below, the line was shifted a little from where it was directed to be run by the decree of 1824.

Now, I take it that, without any further argument or evidence, the testimony is complete that the basis of El Paso, used by the committee, is the true line—a line running east and west from El Paso being the true southern boundary of New Mexico and the northern boundary of Texas. I say that, without any other evidence, and in spite of ancient documents, maps, or the journals of tourists or travelers, these documents establish conclu-

sively the fact of the existence of the line where the committee suppose, and on the basis of which they proceeded to act.

With regard to what has been done by Texas, it has been before stated to the Senate that, from a desire on the part of Texas to bring within her limits some towns or settlements above El Paso, and also a desire understood, whether correctly or not, to exist on the part of those settlements to be attached to Texas rather than to New Mexico, the line, therefore, was directed to be run twenty miles in a straight line above El Paso, and thence to the 100th degree of west longitude, or the angle formed by the Indian territory—so as to throw into Texas a small unimportant triangle, inconsiderable in amount of territory, to which she attached great importance, and the settlers on which were desirous to continue their connection with Texas—and so far doubtless it detaches that little triangle from the province of New Mexico. But, on the other hand, New Mexico is most abundantly indemnified and compensated by the territory proposed to be included within her limits by the committee's bill. There is nearly as much territory added to New Mexico—I believe, however, of little consequence—on the head-waters of the Red river and the Arkansas, east of where the supposed line of New Mexico runs—for it never was actually marked and bounded by appropriate signals or monuments—there is, I say, as much ceded to New Mexico of what was never within her true limits, between Santa Fé and the Indian country, as those limits legitimately comprehended originally by the bill of the committee.

Of the extent of the territory I am very uncertain, and I do not mean to make any statement, any thing approximating to absolute precision; but according to any map or conjecture which I have examined or can form, the true line of New Mexico, would be a line beginning at El Paso and running to the head of Red river, and thence to the forty-second parallel of north latitude; which embraces only one half, if it is equal to that, of the territory which is assigned by this bill to New Mexico. Its magnitude is not diminished at all by the little triangle cut off from her under the consideration which I have stated, but large acquisitions of territory have been made to it, of which the United States, if a territorial government be established, can make such disposition as may be thought expedient. Indeed, I proposed, during the progress of the bill, if it would conciliate opposition to it, to attach and annex to the Indian country this portion of the Territory; but the proposition did not meet with general acceptance. And I did not persevere in it for another reason: because it would be in the power of Congress to alter or vary the boundaries of the Territory if a territorial government was established for New Mexico, and this was included within her limits, by assigning any portion of it, more or less, to the Indian territory.

Entertaining these views, I hope the amendment offered by the senator from Missouri will not be adopted, and that the bill will remain in this respect as reported by the committee. * * *

I have only a word or two on this subject which I choose to address to the Senate. I shall not speak of the epithets which have been applied to this bill; for they have been disclaimed as imputations upon the motives of senators.

The dispute between the senator from Missouri and myself is this: He says the boundary runs down to the mouth of the Puerco, and the boundary of New Mexico is three hundred miles below El Paso. I say the boundary of New Mexico stops at El Paso. He says that by the proposition which we make to Texas we give up 70,000 square miles of territory which belongs to New Mexico, lying south of the line which we have proposed. I say we give up not an acre south of the line. That is the point which is in contest between the senator from Missouri and myself. Now, sir, it is immaterial whether it is Chihuahua or any other province of Mexico below El Paso. Does New Mexico—that is the point—does New Mexico run below El Paso to the Puerco? If it stops at El Paso, it does not. If it goes beyond, why, it may extend wherever the gentleman chooses to place it. But the moment you pass El Paso then you come to Chihuahua, and unless that is identical with New Mexico, the one the same as the other, then I am right in declaring and proving from authentic documents, drawn from the Mexican archives, that the southern limit crosses at El Paso, at or about that point.

The senator says I have avoided the question. So far from that, I spoke of the limit, or what would be the limit of New Mexico, lying east of the line not run, and bordering on her territory. I admitted that there was a large territory which did not of right, according to her ancient line, belong to her. The senator says we cut off New Mexico at the hips—I think that was the classic expression he employed—and gave half to Texas below, and retained the other half above El Paso. I say we do not cut off a foot below El Paso, and consequently the documents which I have cited to show this prove that the true southern line of New Mexico, and the northern line of Texas, is to run through El Paso east and west; although the eastern boundaries of New Mexico were never run and marked there. That is the only point, the only question necessary to be discussed to determine this proposition.

ON THE BOUNDARIES OF TEXAS.

IN SENATE, JUNE 8, 1850.

[THE following extracts from the debate on the boundaries of Texas, were uttered by Mr. Clay in reply to Mr. Rusk.]

MR. CLAY. I regret extremely this obstruction to the bill on the subject of a few miles more or less on the Rio Grande. I repeat again what I have said before, that I have got no ultimatum or sine qua non; but really, I do think, after the full consideration given to the subject by the committee, that there ought to be some disposition to acquiesce in the decision to which they came. The senator from Alabama has correctly stated what occurred before the committee. The first idea was El Paso, very much pressed, and anxiously pressed by me. The next idea was to go just above El Paso, so as to leave El Paso to Texas, and to begin there. Then there was some talk of those inhabitants who could not get to Santa Fé, and could get, by going twice the distance, to Austin, the seat of government of Texas. Then we proposed ten miles; then twenty, and then twenty miles in a straight line was proposed, instead of with the meandering of the river. The senator from Alabama will recollect that the committee had no satisfactory information concerning the people of this country, or their disposition to be annexed to one party or the other. I beg to call the attention of the Senate to the difference between the positions of Texas and New Mexico. Texas has her two senators upon this floor entirely disposed, in negotiating for their State, to get all they can. I make no reproach against them for it, but the information which I get from the delegate from that Territory is very different from that which we derive from the senators from Texas, acting as both parties do, on information given them, rather than upon personal knowledge. Now, in point of fact, I understand that the bulk of the inhabitants are twenty miles above El Paso, although there may be one or two hundred inhabitants scattered along the valley all the way up to the commencement of the Passage of Death. But, let me ask, in fixing the boundaries of States—of empires perhaps—is it of any importance whether there are a few inhabitants above or below the line? Now, we do not hear from these people. The honorable senator from Texas states, as he no doubt believes, that they desire to be attached to Texas. The delegate from New Mexico behind me states directly the reverse.

Mr. Rusk. Has he ever been there?

Mr. Clay. Yes, he has been over the whole road from Santa Fé to El Paso, and has letters in his possession recently written, representing that the inhabitants do not want to be joined to Texas. How, then, are we to act in this state of uncertainty and absence of information? But look at the fact. The fact is, that the inhabitants proposed to be annexed to Texas are not less than seven hundred miles from their seat of government, and I really can not see how they can get there. How are these few inhabitants, whom it is so desirous to attach to Texas and not to New Mexico, to travel to their seat of government, which will be twice the distance off?

The honorable senator from Texas speaks of some inaccessible valley. Well, if Santa Fé is inaccessible and difficult to be got at, the same objection applies to Austin. Besides that, I am told that there is a fine natural road, a great commercial highway, one of the finest commercial roads in the United States, and the only difficulty is the want of water, and the caravans with merchandise have no difficulty in supplying themselves with water. Besides, wells can be sunk. Why, I have had half a dozen ponds made at Ashland, and we have hundreds and thousands of them in Kentucky, and as settlements fill up and population increases, there will be no difficulty in forming dépôts of water for the accommodation of travelers over these ninety or one hundred miles of fine natural highway, without any obstruction of mountains or even very inaccessible hills, and with the finest grass pasturage on every side.

Now, really, I do hope that the honorable senator from Texas will not persevere in this desire to go to the line of 34°; in other words, to leave but two and a half degrees. As I have already stated, a much less amount of pecuniary equivalent must be offered to Texas than if the line remains where fixed by the committee. There may be a few inhabitants left out, but according to the present information we possess, it would not amount to much.

I repeat that the fixation of this line between New Mexico and Texas, giving to Texas, as we propose to do, El Paso and the bulk of the inhabitants around El Paso, she ought to be satisfied that the report of the committee should be adhered to. * * *

I am fully persuaded of the anxious desire of the senator from Texas to concur in some amicable settlement of this whole affair. I do not doubt it. But I think he has allowed himself to be unnecessarily excited on this occasion. He speaks of the bravery and determination of the people of Texas. I never doubted it. They have given the whole world evidences of their bravery, but they are no braver than the rest of the people of the United States; not a particle more brave. They constituted once a part of the people of other States, and I do not imagine that the climate of Texas has infused any particular valor into their veins beyond what they carried there, and beyond what is retained by those they left behind. But it is useless to talk of bravery, and resorting to conflict, and the "degrada-

tion of Texas." What degradation is there? Are not the United States at liberty to make proposals to Texas for her acceptance, offering to buy a specified portion of what she claims to be her territory, and expressing their willingness to buy her peace? Why should these proposals, which appear to us proper, be offensive to Texas? Why, Mr. President, I always hear the senator from Texas with so much pleasure, and generally with so much instruction, that I never fail to listen to him with great satisfaction; but allow me to say that if he were representing Texas with full power to settle this question, we might discuss it more freely and fully. But this proposition is not from Texas to Texas, but from the United States to Texas, and we propose a certain boundary, and certain conditions for a certain sum of money.

Now I can no more imagine that that can well be offensive to Texas than if I were to offer to purchase a tract of land from one of my neighbors, at a price proposed, it would be offensive to him. He is freely at liberty to accept or not, as he chooses. Sir, toward Texas I have the kindliest feelings, and among other considerations which urged me to oppose the taking of thirty-four as the boundary line between Texas and New Mexico, thereby taking away nearly half the territory between thirty-two and thirty-six and a half—one consideration, I say, was that we shall not be at liberty, on establishing that line, to offer to Texas any such pecuniary equivalent as, for one, I feel strongly disposed to do. Sir, there will be difficulties enough upon this part of the subject, I anticipate, when we arrive at it; but let us not increase them by giving to Texas nearly half of the territory between thirty-two and thirty-six, for the sake of including a few scattered inhabitants, when she will afterward expect to get just as much money as an equivalent as if she had not demanded this. Sir, the matter has been already more discussed than was necessary. I am very sorry a proposition of this kind was made. Of all the topics connected with this arrangement, the one that gave me most trouble and anxiety has been the proper adjustment of this territorial line. I sought most anxiously from day to day to effect it in an amicable manner. I found it impossible to agree in all respects with the gentlemen who represented the State of Texas. We took up the subject, acted upon it, proposed a line. I would be willing to take the line in substance presented by the senator from Illinois, beginning at El Paso, or twenty miles above El Paso, if you please, and running it to the Red river at the forty-second degree, throwing off, according to the maps—although I know they are not always much to be relied on—nearly two thirds of what is proposed to be ceded by Texas to the United States, and retaining only the slip of land on the Rio Grande. I would be willing to agree to that. In short, so anxious am I for the adjustment in an amicable and satisfactory manner of these great and troublesome questions, that there is scarcely any thing I would not be willing to do; but I repeat that I think it would be better to adhere to the line proposed by the committee.

[The following remarks of Mr. Clay were made June 7, on an amendment offered by Mr. Clemens, of Alabama.]

Mr. President, the amendment, I believe, which has been proposed by the senator from Alabama is to strike out the proposition made to Texas for the purchase of the portion of her territory which is designated in the bill; that is to say, the territory claimed by her, embracing New Mexico; to strike out all the propositions, if I understand the amendment, made to Texas for settling the question of her title to the territory which I have described, and in lieu of them to recognize and confirm her rights, as claimed by her, from the mouth to the source of the Rio Grande.

Mr. President, I had hoped that I would not be compelled to address the Senate any more on amendments to this bill; but the one now offered renders it necessary that I should say a few words. The effect of the proposition of the senator from Alabama is to leave the whole territory ever claimed by Texas, including New Mexico, in the possession of Texas, sovereignty and all, and consequently to place New Mexico under the permanent dominion of Texas. To that, for one, I can not consent. This I consider to be far the most important amendment which has been, or which probably will be offered to this bill. I conceive that there is a good deal of misunderstanding on this subject, both in the country and in Congress; and I desire, in this stage of the bill, to present a few considerations to the Senate and to the country, without, however, discussing at any length the various questions connected with the boundaries of Texas.

The questions involved in the amendment are very complicated, and it requires earnest attention to comprehend it. It involves questions of title, questions of law, and perhaps some other questions. Before I consider any of these questions, let me say that the whole section which it is proposed to strike out, amounts to nothing more than a proposal, on the part of the government of the United States to the government of Texas, to settle and quiet a disputed title. That is the view I take of it. If these proposals be acceded to by Texas, then the question of title in controversy is quieted and settled. If they are rejected, both Texas and the United States revert back respectively to all the rights which they possessed prior to making the proposals. It is, therefore, a mere overture to settle a territorial matter in dispute between Texas and New Mexico and the United States.

It has been said that the proposals involved a great concession of slave territory to the principle of free territory. Sir, I think I shall be able to show that, upon a certain hypothesis, which may be well assumed, there is a great conversion of free territory into slave territory; that there is a concession of three fourths of the disputed territory to slavery by the terms of the proposals to Texas. I say upon a certain hypothesis. I do not mean, at this time of day, to enter into a discussion of the validity of the title of Texas to all that portion of the territory conceded to us by Mexico lying east of the Rio Grande. That question has been discussed again and again. It has been very ably discussed by two or three members now in

my eye. It has been discussed by the distinguished senator from Missouri (Mr. Benton), who, upon that occasion, displayed, as he does upon almost all occasions, the extent and the value of his diligent researches. It was discussed by a member from Maryland (Mr. Pearce) also, who contended with great ability that the Nueces was the western limit of Texas; and, consequently, that the hypothesis to which I allude is correct. I do not deem it necessary again to discuss, and now to settle the question of the controverted title. And I beg leave to say to those who believe in one state of the title, and to those who believe that the opposite state of title exists, not to draw from any observations which I am about to make, conclusions favorable or unfavorable to the one side or the other.

Sir, we know that this question has greatly divided the people of the United States—whether the western boundary of Texas was or was not the Nueces. I believe I may say that one great party in the United States, without, as far as I know, any exception, were of opinion, a few years ago, that the Nueces was the western limit of Texas. But that opinion was not confined to that party. The distinguished senator from Missouri, to whom I have referred, on the other side of the chamber, belonging to the other party, was always of that opinion. We all remember—none of us can forget—the great effect of the powerful speech of the honorable senator. Though not a member of this body at that time, I must confess that I read the speech of the honorable senator from Missouri with great attention, and I went along with him generally in the conviction which he sought to impress upon the Senate and upon the public mind; but, while I abstain, and mean cautiously to abstain, from going into the general discussion, whether the Nueces or the Rio Grande from its mouth to its source was the western boundary of Texas, as declared by the act of the Congress of Texas of 1836, I will say that I think Texas would be unwise, extremely unwise, if she desires to increase the sphere of slave territory, to submit that question to the decision of the Supreme Court of the United States. Sir, assuming that the Nueces was the western limit of Texas—and that is the hypothesis to which I have referred—upon that predicate, there is a cession of free territory to slavery of the country extending from the Nueces to the Rio Grande, and from the mouth of the Rio Grande up to 36° 30′ of north latitude. That extent of territory upon the Rio Grande is about one thousand two hundred and fifty miles, about three-fourths of which are conceded by the partisans of free territory to slavery, assuming the Nueces to be the true western limit of Texas.

On the other hand, if you take the opposite principle, which has been contended for, that the Rio Grande, from its mouth to its source, be the western limit of Texas, what will be the result? We know that, besides the senator from Missouri, to whom I have referred, there are other gentlemen of each party who entertain the opinion that Texas has no title whatever to any portion of New Mexico. The honorable member from Illinois (Mr. Shields), just before me, who made a capital speech upon the general

subject, to which I listened with profound attention and unfeigned pleasure—a speech alike worthy of his head and of his heart; a speech worthy of an American heart; a speech worthy of an Irishman's heart (and that is saying identically the same thing)—declared that he did not think Texas had the slightest claim to any portion of territory contained within the limits of New Mexico. And the honorable senator clearly stated the whole case in a few convincing words. So that, while there is, or was, with one party a unanimous conviction that the Nueces was the legitimate western boundary of Texas, distinguished members of the other party concur with those who maintain that the Nueces was the true boundary. I suppose, upon the assumption I made that the Nueces was the western limit of Texas, no one will doubt that there is a concession of all that scope of territory between the Nueces and the Rio Grande, and from the Rio Grande up to twenty miles beyond El Paso. In other words, that for about nine hundred and twenty miles, up to the Rio Grande, there is a concession, in the proposals to Texas, of what, in the hypothesis assumed, must be regarded as free territory to those who desire the extension of the theater for slavery.

Sir, this question of disputed boundary presents exactly one of those cases which are eminently suitable for accommodation and amicable arrangement. If there be in the circle of human affairs and transactions, a matter which is a fit and proper subject of arrangement and adjustment, for compromise, it is precisely the case of disputed titles, whether in a national or an individual point of view.

One side contend for the Nueces and the other for the Rio Grande, according as the one or the other wish the theater for slavery to be contracted or enlarged. I have, therefore, when looking at it as a question of adjustment of the disputed title of Texas, thought that gentlemen from the South ought to be content in withdrawing from all future controversy a large extent of territory, stretching nine hundred and twenty miles on the Rio Grande, and dedicating it to slavery, if its future population shall so decide. Now, on the other hand, what is the concession from the slaveholding States to the free States? It is that portion of the territory comprehended within the boundaries of New Mexico, between twenty miles beyond El Paso, on the Rio Del Norte, up to 36° 30′ of north latitude, or, in other words, about four and two third degrees. On the one hand, the amount conceded by the free States to the slave States, has an extent of nine hundred and twenty miles; while, on the other hand, the concessions on the part of the slave States to the free States, is only about three hundred and twenty or three nundred and thirty miles. Three fourths are received by one party, one fourth only by the other! Now, sir, in such an adjustment as that, I ask, if there be cause for complaint on either side, which is the side that ought to complain? I repeat, I do not mean to go into the argument of this question of title now. I know with what confidence it has been asserted that there can not be a particle of doubt about the title of

Texas to the territory east of the Rio Grande from its mouth to its source; but I will hazard the prediction, that if that question be ever determined by the Supreme Court of the United States, those who claim the validity of the title of Texas to the extent stated, will find themselves greatly mistaken. That is my opinion; and I merely repeat the opinion which I expressed in the beginning of the session. The conclusion at which I arrive, however, is, that it is a fair and fitting subject for adjustment and mutual concession between the two portions of the Union.

But now let me pass from El Paso, or from Texas proper, to the limits of New Mexico. I have heard it complained, in tones of the greatest severity, that we were conceding to New Mexico a vast territory, which being now slave territory, will by that means be appropriated to the principle of free soil. Here, again, I repeat that I shall not go into the argument of this question. My worthy friend in my eye (Mr. Shields) expressed, in two or three paragraphs of his excellent speech, to which I have already adverted, all that need be said, if we were discussing the title of Texas to the country called New Mexico, this side of the Rio Grande. But, let me ask, how it is made out that by purchasing the right of Texas, whatever it may be, to this territory, it would follow, as the argument goes, that it amounts to a conversion of slave territory into free territory? No such result can take place, if the passage of the bill now under consideration should occur. On the subject whether slavery does or does not exist within the limits of New Mexico, the principle of non-intervention is applied by the bill. Those who argue in this manner, say that it is now slave territory, because it composes a part of Texas, which, being a slave country, established slavery where its law extended, and gave slaveholders the right to carry their slaves to New Mexico. If that be true, the right of the slaveholder remains unaffected by the bill, because there is no prohibition of that right, no abrogation of the law of Texas. The Texas laws will remain in force and vigor, if it be true, as is contended, that the laws of Texas extended to and were in full operation in that Territory.

Again; it is contended by gentlemen on the other side of the House, and by some on this, that the Constitution of the United States, in virtue of its own self operation, removes all obstacles existing in these acquisitions of territory to the transportation of slaves thither, and that in virtue of the supremacy of the Constitution of the United States, the people of the slaveholding States have the right to carry their slaves to Utah or to New Mexico, as well as on this as on the other side of the Rio Del Norte. How, then, can it be said that there is a concession of New Mexico on the part of the slaveholding States to the free States, and the conversion of it from slavery territory into free territory? It is either right or wrong that New Mexico composes part of Texas, and that the laws of Texas prevail there, and that those laws entitle you to carry your slaves there. If it be so, your right is preserved, and it can not be abrogated or infringed by the operation of the bill which is now under consideration. You say again

that the Constitution gives you the right to carry your slaves into New Mexico this side of the Rio Del Norte. The bill leaves in full force the paramount authority of the Constitution. The conclusion then is irresistible, that if there be slavery there now, or if there be authority to carry slaves there, either by the prevalence of the Texan law or by the authority of the Constitution, those rights will continue unimpaired and in full force, notwithstanding the passage of this bill. On the other hand, if the Texan authority and Texan law never reached New Mexico, which is my private opinion, it follows that New Mexico continued, notwithstanding the passage of the act of 1836 by the Texan Congress, to be a part of the Mexican republic, and if it never were detached from that republic by the arms of Texas, and the Texan laws never stretched over New Mexico, it follows that, up to the moment of the cession of that territory to the United States by the republic of Mexico, the laws of that republic having, according to my humble conception, abolished slavery, slavery does not exist there, and the territory will be appropriated to the principle of free soil. Now, what ought to be done more satisfactory to both sides of the question, to the free States and to the slaveholding States, than to apply the principle of non-intervention to the state of the law in New Mexico, and to leave the question of slavery or no slavery to be decided by the only competent authority that can definitely settle it forever, the authority of the Supreme Court of the United States?

The honorable member from Connecticut (Mr. Baldwin) on yesterday wanted the law settled. He was answered in a manner triumphantly and irrefutably by the senator from Michigan (Mr. Cass) that we have no authority so to do. If we were to declare what the pre-existing law was, it would have to be done in the form of a declaratory statute. The effect of a declaratory statute I take to be this. Although the declaratory statute can not alter the pre-existing law, it becomes, with regard to the future state of the law, equivalent to a new enactment from its date. Suppose, then, we were to make a declaration of the law pleasing to the learned senator, whose eminence at the bar, and the knowledge of whose eminence is not confined to one State, but has been coextensive with the Union, how, if we were to attempt to settle this qnestion, could it be settled? In the first place we can not settle it, because of the great diversity of opinion which exists; and yet the senator will ask those who differ with him in opinion to surrender their opinion, and, after they have made this sacrifice of opinion, can they declare what the law is? When the question comes before the Supreme Court of the United States, that tribunal alone will declare what the law is.

Mr. President, I did not rise, as I said, to discuss the state of facts under the operation of the bill now under consideration. But, while I am up, I should be wanting in the discharge of my whole duty, if I did not advert to the present condition of New Mexico. Has any man cast his eyes on that country, can any American statesman propose to leave this question

unsettled, without entertaining the most serious apprehensions of a domestic difficulty which will end in blood and slaughter? Already, according to the information which I have received, there has been a conflict between the people of Santa Fé and some persons—according to the account which I saw, about a hundred—in the employment of the quartermaster's department of the general government, under the direction and control of that military government, that lieutenant-colonel, who now holds in his hands perhaps the destinies of Santa Fé and New Mexico. He looks on wholly indifferent, and is neutral in the struggle about to arise between the people of Santa Fé, composed, I understand, of American citizens, Mexicans, and Spaniards, this side of the Rio del Norte, and the authorities of Texas. And this neutrality is to be kept by the appointed governor, the military governor, the lieutenant-colonel, who has the dealing out of civil commissions, acting, it is true, under one of the departments in Washington, as if he were the Autocrat of the Russias. This military governor, this lieutenant-colonel, who has been placed over this people, and who, as their guardian, is bound to protect them, looks with cold indifference upon that struggle already begun in the streets of Santa Fé, in the conflict, according to my information, of some one hundred men on each side, those in the service of this government taking part with Texas! It was suppressed, ultimately, it is true, by the application of some portion of that force under his command.

Now, Mr. President, I put it to the Senate and to the country—dismissing altogether the question of the title of Texas to the Nueces, or to the Rio Grande, leaving out of view the extent of concession from the slaveholding States to the free States, or from the free States to the slaveholding States—leaving out of view all these considerations, I submit, if you do not know that there is a most insuperable antipathy existing between the people of Santa Fé and those of Texas. We know they can not live happily together, and the inevitable result of doing nothing will be to lead to civil war. I ask you, waiving all these considerations about right, and about whether the Nueces or the Rio Grande was the western limit of Texas—waiving the question of the extent of free or slave territory gained by one or the other party—I ask if our obligations with regard to the people of Santa Fé do not impose on us the obligation to make some effort to dissever them from the authority of Texas, to which they are so unalterably determined not to be attached? Such is my view of the case.

I believe that there has prevailed a most extensive misconception of what is granted to the South by dissevering New Mexico from Texas. It is said that the South will gain nothing by that. Have I not shown that she will gain three times as much as the North, even assuming that New Mexico shall be free territory, and whether or not the Texan law, or the Constitution of the United States, carries slavery there?

I have felt it my duty to make this brief exposition of the reason why I think the amendment should not be adopted, and the bill should be allowed to stand as originally reported.

ON ECONOMY OF TIME.

IN SENATE, JUNE 26 & JULY 2, 1850.

[FEEBLE as Mr. Clay's health was, and having already been engaged nearly seven months in endeavoring to bring about the Compromises of 1850, we find him, on the 26th of June, moving in the Senate to meet at the hour of eleven o'clock, instead of twelve; and, on the 2d of July, earnestly opposing the fixing of a day of adjournment of Congress, until these great questions could be settled.]

June 26. Mr. Clay said:

Mr. President, I rise to move that when the Senate adjourn it adjourn to meet to-morrow at 11 o'clock, and at that hour every day thereafter, until otherwise ordered.

Sir, I complain of no one, I reproach no one, when I say, that it does appear to me, that, out of respect for ourselves, out of respect for the country, out of respect for the duty which we owe to the other public business of the country, we should ascertain what is to be the fate of this bill. I could not, this morning, refrain from making a contrast between the proceedings of another legislative body over the sea and our own. Upon a question as to the organic law of the government of France, limiting and restricting, to a great extent, the elective franchise, a body composed of upward of seven hundred members decided the question in less than ten days, passed the bill, and submitted it to the proper authority to be acted upon. And here we have been nearly two whole months upon a single bill, and if any man can see when the question is to terminate, I own, for one, that I am in utter darkness. My purpose, therefore, is to move that we meet again at 11 o'clock; and I shall insist, if the motion prevail, that we sit from day to day, until a decision is had. I ask for the yeas and nays on my motion.

MR. HALE. Mr. President, I hope the yeas and nays may be taken on this motion. I have risen simply to say that, for one, I shall vote against it.

MR. CLAY. I supposed so.

Also, same day:

Mr. President, the senator from New Hampshire is in his usual vocation. There has not been a proposition for dilatory proceedings in relation to

this bill, since its origin to this moment, to which he has not lent his aid, his countenance, and his support. He is in his accustomed vocation.

Sir, did I cite the proceeding in France for the purpose of approving the privation of the right of suffrage from two thirds of the people? If the senator says so, it is a great perversion of the purpose for which I cited it. I cited it to show that upon a great national measure, involving the rights of thousands upon thousands, the French Chamber of Deputies, in about ten days, came to a final decision.

If you go to the other side of the channel, you will find that it is not common, in the British House of Commons, to extend the discussions on any measure, whatever may be its object or character, more than a week or ten days. And yet here, nearly two months have been exhausted in the consideration of this measure. The senator tells us that this has resulted from the fact of connecting together measures, contrary to the usual mode of parliamentary proceeding. I deny the fact. This conjunction is not contrary to parliamentary law. I vindicated the conjunction of the measures in a manner which no one has yet ventured to answer. It depends upon the discretion, the sound discretion of the Senate, whether it will mix one or more measures together, and upon the final passage of any such combined measure every man must decide for himself, and according to his own conscientious convictions, whether he will vote for the combined measures or not; just as in the case of a tariff, combining thousands of items, with some of which he is satisfied, and to others of which he is opposed, he votes for or against the tariff, according to the manner in which he supposes there is contained in it a distribution of good or evil. But even supposing the objection to hold good that this measure is composed of incongruous parts, is it never to be decided? Why, sir, the week before last it was hoped, it was believed by every body, that we should arrive at a decision by the last of this week. Now no man thinks of any such thing. When, I ask, are we to come to a decision of it?

Sir, I can go before the country without fear, without trembling, as to the judgment which will be pronounced upon the course of action pursued by the Senate of the United States. Let the country decide, and decide it by the yeas and nays upon propositions for adjournment, who has procrastinated this measure. And does the honorable senator expect by delay, by procrastination, to prevent, finally and ultimately, a vote upon this measure? If not, why not come to a vote? Why not accelerate our arrival at that vote by meeting earlier, sitting longer, and sitting every working day in the week if necessary?

Mr. President, I regret this opposition. I am not, however, surprised at it, because it has been encountered in every stage of the progress of this measure. But, in spite of that opposition, I trust that a majority, a large majority, of the Senate will be found in favor of restoring the 11 o'clock hour for meeting and going on with this business until we can arrive at a conclusion.

July 2. On motion by Mr. Yulee, the Senate proceeded to the consideration of the following resolution, submitted by him yesterday:

Resolved, that the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses on Thursday, the first day of August next, at twelve o'clock, meridian.

Mr. Clay. Mr. President, I should be very glad to learn what view has been taken by the honorable senator from Florida of the actual state of the public business, and the probability, by the time proposed in that resolution, of disposing of it, which is indispensable to the public service. There are questions in relation to the formation of territorial governments in our recently-acquired acquisitions from Mexico; there are questions relating to the subject of slavery within the United States and in these Territories, and I do trust that Congress will not think of an adjournment without some final and decisive adjustment of these questions, or at least the ascertainment of the utter impracticability of settling any of these questions. Besides, there are the appropriation bills, with respect to which I believe no progress has been made—bills which ordinarily have occupied of themselves more time than will elapse between now and the time proposed for the adjournment.

Indeed, with any view which I can take of the condition of public affairs, I think nothing would be more inexpedient than for the Senate at this time to commit itself to any day of adjournment, but especially one so near at hand as that which is proposed. There is no member of this body more anxious than I am that this session of Congress should come to a termination. But I would as soon quit the field of battle at the moment when our arms were directed against a foreign enemy, and when it was my duty to expose my life to the utmost hazard—I would as soon, aye, sooner, flee from such a field of battle, than I would quit my post here, and leave the country in the position in which it would be left if we do not settle these matters.

Sir, we are without even any suggestion from the honorable senator from Florida of the possibility of accomplishing the great works which lie before us, and which ought to be disposed of before we adjourn. It is with feelings of regret that I must say that we have not had the assistance of the honorable senator in our endeavors to settle these agitating questions.

There is an idea that, when there is a fixed day of adjournment, some moral or parliamentary coercion will operate upon members, and compel them to accelerate the dispatch of business. I can not act in reference to the great questions now pending upon any such hope as that. Thinking, then, that it would be altogether improper and highly imprudent to fix at this time a day for the adjournment of Congress, and especially to fix such an early day, I move that the resolution now under consideration be postponed until this day fortnight. By that time we shall, perhaps, be able to have a clearer view of what remains to be done, and of the time in which it can be done.

ON A MEMORIAL FROM THE STATE OF DELAWARE.

IN SENATE, JULY 3, 1850.

[SENATOR WALES, of Delaware, had read a somewhat long memorial from some of his constituents against the Compromise measures then in debate before the Senate, which occasioned the following remarks of Mr. Clay.]

Mr. President, I feel it proper and incumbent on me to say, that I have received a letter from one of the most eminent citizens of Delaware, by which I am informed that upon the question of the adoption of these resolutions, the meeting was so nearly equally divided, that it could not be ascertained on which side the majority lay, and it was only upon a second division of the meeting that a small majority was supposed to present itself in favor of the resolutions.

Sir, the resolutions which the honorable senator has presented endeavor to assail the bill before the Senate upon the ground of its being, in the popular language of the country—but I hope the term will not be applied in the Senate—an "omnibus" bill. Those resolutions which have a diplomatic odor about them, are much more incongruous in their character, and the subject of which they treat, than the bill to which this appellation has been applied. But the honorable senator near me is not satisfied with the presentation of the resolutions, but must make some observations on the great measure pending before the Senate. He thinks it has not yet produced the concord which its authors hope for. Let it be tried before the country, and I think the issue will be that it will produce concord throughout this distracted nation. He tells us that the senators from the South are not united, or that there is considerable division between them. I confess I have found some difficulty in counting votes in this body, and I have experienced no difficulty in ascertaining the course which the honorable senator himself means to pursue. But I hope, I yet hope, that he will find it incumbent on him to support this measure. If I know any thing of the people of Delaware—and my heart is full of gratitude toward them, and I have always had great respect for their sentiments throughout the long time that I have been acquainted with them and their representatives

—if I know any thing of the sentiments of the State, if influences are not brought to bear upon them, I venture to say they will stand alongside of the vast majority of the States of the Union in favor of this compromise —a majority so great that in some States, Maryland for example, the neighbor, the nearest neighbor of Delaware, and in my own State, it approximates almost to unanimity.

And, sir, to go beyond the slaveholding States, the State represented so ably by my friends in my eye, the States of Indiana and Illinois, are almost unanimous in favor of the bill. When I arrive, as I soon hope to do, at a period when I can vindicate this measure, I will show how predictions heretofore made in reference to compromises of former times have failed, as they will fail now. When the Missouri compromise was proposed, it was everywhere said, and in both Houses of Congress, "it will bring no peace to the country." And yet everywhere throughout this nation there was a degree of joy and exultation almost unparalleled in its existence. So it was said when the compromise of the tariff of 1833 was adopted. Repeal, agitation, and modification, it was announced, would be attempted at session after session, in order to destroy that compromise. So far from it, the manufacturing interest never enjoyed seven years of more profound peace and prosperity than it did during the prevalence of the compromise tariff of 1833, and up to the time when that compromise fell down to the lowest rate of revenue did that prosperity continue unchecked and unalloyed.

Sir, the nation wants repose; and, as has been properly remarked, it is not so much cared what mode be adopted—though I believe a vast majority of the people are in favor of this measure of compromise—as that some healing measure, some comprehensive measure, some measure that shall reach all the sources of distraction which prevail throughout the country, be adopted. And any such measure will be hailed with a delight which the disturbers of the peace will find themselves wholly unable to destroy or impair in the slightest degree.

I have felt myself called upon, standing in the relation I do to this subject, to make the few observations which I have made, in consequence of the remarks, and in consequence of the character of the resolutions, presented by the honorable senator. * * *

Mr. President, I wish to make but a single remark with respect to Wilmington. It is not a very large, though an extremely respectable city, full of industry and energy. Its population is, I suppose, about ten or fifteen thousand. There is no man in that city better acquainted with its public sentiment than my friend to whom I referred, and whose name is well known to the senator from Delaware.

But with regard to the editors who were there, and who voted against these resolutions. There was an editor, if I am rightly informed, from the "North American" press of Philadelphia, who went to Wilmington to assist the good people of Delaware in framing these resolutions.

Mr. Wales. He made a speech there.

Mr. Clay. Yes, he made a speech upon the occasion.

Now, with respect to the "diplomatic odor" which these resolutions emit, I did not locate the diplomacy in Wilmington, but I should be extremely happy to see the original resolutions as at first drafted. They embrace so much matter, they are so comprehensive. Our bill an "omnibus!" Why, their "omnibus" is ten times as large. It covers the foreign diplomacy of the country and the entire administration. That member of the administration from the senator's own State is lauded to the skies for the Nicaragua treaty and other diplomacy. Their "omnibus" contains matters vastly more incongruous than these measures, which we have conjoined in this compromise bill. And yet they oppose this bill because of the incon gruity of the measures of which it is composed.

ON THE ADMISSION OF CALIFORNIA

IN SENATE, JULY 15 & 19, 1850.

[It should be understood, that the bills reported by the Committee of Thirteen were for the admission of California, to establish territorial governments over New Mexico and Utah, to satisfy the claims of Texas over a part of New Mexico, to recover fugitive slaves, and to abolish the slave-trade in the District of Columbia. There was a long-protracted debate on the admission of California; and the following are some selections from what Mr. Clay said on that subject.]

July 15. Mr. Clay said:

It is true, as has been stated by the senator from New Jersey, that I entertained the purpose not to fill the blank with the sum to be paid to Texas until the third reading of the bill, if it should reach that point. At the time I made that intimation I was acting upon my general knowledge of parliamentary law, as laid down in the manual and the British books. According to these authorities, I knew that it was proper then to fill any blank that might, to that time, have been left in the bill; but since then my attention has been called to the particular rule of the Senate of the United States on this subject, which I believe I have never examined since it was adopted by the Senate, and I am now inclined to think that by one of our rules there has been a modification of the parliamentary law—that is, as to filling up blanks. By our rules I find that no amendment can be made on the third reading of a bill without unanimous consent; and upon ascertaining that our rules have thus modified the general parliamentary law, I changed my purpose as to the time when it would be proper to propose to fill the blank in this bill. My present purpose is to propose to fill the blank as one of the last amendments that it will be in order to make to the bill before it is ordered to an engrossment; and it will then be in order for the senator from New Jersey to offer his amendment which is now before the Senate. * * *

Mr. President, the proposition before the Senate, which has been submitted in that spirit of fairness which has characterized the senatorial course of the gentleman who made the motion, throughout my whole acquaintance with him, is one of great importance. It is vital. It is con-

clusive, if it prevail, of the fate of the bill. The question is, whether all the labor bestowed by the committee of thirteen, and by the Senate, upon this great work of pacification is now to be lost, and whether we shall be brought back to the simple question of the admission of California, with her limits as proposed, with her representation in both branches of Congress as proposed.

The question is, in other words, whether we will take California, with all the objections that have been made to her admission, without compensation; or whether, rejecting the motion, we will take California, with the compensations that are provided in this bill. If the motion prevail, the effect of it will be to bring up instantly the question of the admission of California. And upon that question, no senator can hesitate to believe but that there is a large and decisive majority in the affirmative; of which majority—I repeat the profession and declaration I have often made before—I am one.

If I am reduced to the necessity of voting separately and distinctly upon the question of the admission of California, with her whole limits—stretching along the entire length of our possessions on the Pacific, up to the boundary of Oregon—with her senators and representatives, without any compensation, without any equivalent, without any rejection of the principle of the Wilmot proviso, I am prepared to give the vote. And the question for the Senate, and for all parts of the Senate to consider is, whether or not they will take the admission of California with the compensation contained in this bill as it is, or as it may be hereafter modified by subsequent amendments, in preference to what is otherwise inevitable—the separate admission of California. I hope and trust the proposition will be rejected. If there were any doubts about it, I should ask for the postponement of the question until the return to their seats of three or four senators, who, I hear, will vote against it. But, as I presume the proposition will be rejected by a large majority, I shall not ask this.

Mr. President, I have two or three times indicated my purpose, at some suitable moment, after hearing all that has been said against this bill, to address the Senate in answer to all the leading topics of objection that may be urged against it. I would do that now, but that I think the moment for performing such a duty has not arrived, and but for the anticipation I feel that this motion will be rejected. I have risen for the purpose which I have indicated, of stating the consequences of the motion: California as she is, without compensation, or California with the compensation contained in this bill, or which may be put in it during its subsequent progress. That is the question before the Senate, and I wish the country to see and understand it.

July 19, Mr. Clay said:

Mr. President, my connection with this subject imposes upon me the discharge of a very painful duty. I should gladly not have been placed in a position in which I find it necessary to make some response to the argu-

ment of the two senators who addressed the Senate this morning. Throughout the whole progress of this measure I believe no mortal man has ever before, in any deliberative body, been placed in such a condition as I have been in connection with this subject. Sir, I am at a loss to decide whether the embarrassments which I encounter from the open enemies of the bill, or those which have arisen from gentlemen disposed to be friendly to it, are greatest. With the exception of three or four senators and members of the committee who have kindly stepped forward to sustain it, the measure, has received very little aid, very little countenance, from any side of the House.

Sir, the honorable senator from Alabama (Mr. King), this morning, in a manner perfectly cool, calm, and dispassionate, announced his desire to vote for the measure. He declared his readiness to do so if the difficulties he suggested were obviated. Now, I beg the earnest attention of that senator to what I have to say about the insuperable difficulties which he has stated. In the first place I must commence by admitting as incontrovertible the power of Congress to reject the admission of California *in toto*, to treat the country as a Territory, without the organization or form of a State, to reject it in whole or reject it in part, to remit the senators and representatives who have been deputed to this Congress by California, back entirely or not, as Congress may think proper to do. The power is incontestable. It has not, that I know of, been contested.

And now, allow me to proceed to the question which the senator from Alabama starts, and which produces all the difficulty in his mind. That question, I put it to his candor to say, is not a question of power—is not a constitutional question, but is a mere question of expediency. The Constitution of the United States gives to Congress the power to admit States. The power is plenary, full, unrestricted, unconditional. It is to be exercised and regulated, it is true, by its application to any given case of the admission of a State into the Union, by a sound discretion, by the application of all the wisdom, prudence, and judgment which Congress can apply to the subject. But there is no limitation upon the power to admit a State into the Union.

While upon this part of the subject I beg leave to reply to an argument urged by the honorable senator from South Carolina. He seemed to suppose that it was a constitutional prerequisite that there should be a territorial government. No such thing. The existence of the requirement of a territorial government as preceding the admission of a State into the Union, is not to be found in the Constitution. It is to be found I admit, in the practice of the government. But it is nowhere to be found in the Constitution of the United States. The power, then, to admit, is plenary and unconditional, requiring no previous territorial government, requiring no prescribed limits to the State which is proposed to be admitted, requiring no greater or less extent of territory; but it is in the constitutional power of Congress to admit a State as large as a whole continent, if it chooses to do so.

Mr. Butler. Mr. President, one single word, if the senator will allow me, to put myself right, and avoid a mistaken construction of my remarks. I did not contend that it was essentially necessary that a State should pass through a process of territorial government, but I did contend that no people, either in a territorial form of government, or any people living on the public domain, had a faculty to form for themselves a Constitution without the previous assent of Congress.

Mr. Clay. They have not, as a matter of right, the power or the right to do it; but, if they do it, and Congress chooses to waive the irregularity of their doing it and to admit them, the act of admission retroacts upon the fact of the organization, and makes it legal. For the sake of the argument, I am disposed to make even that concession. I contend that, if a people form a Constitution—I do not care what sort of people they are, of what color they are, what right they have to the soil, how they came there, whether for temporary or permanent purposes—and if Congress chooses, upon the presentation of the Constitution framed by such a people, to admit them, Congress has the power to do so.

The question recurs, then, to a ground of expediency in the exercise of an indisputable power, and that expediency to be regulated by the sound discretion of Congress. Now, with regard to the extent of territory which this bill gives California, does not my friend from Alabama know that upon this side of the Rocky Mountains there is a State of far greater extent than California? Texas, on this side of the Rocky Mountains, even with the reduction of her limits proposed by this bill, and certainly without that reduction, has an extent of territory far exceeding that of California on the other side of the Rocky Mountains. Look abroad at the map of the country, with the thirty States of this Union, as to the amount of population which should be contained within a State. I refer to them in no invidious spirit—for I regard both Rhode Island and Delaware as among my best friends—but who, if we had the geographical arrangement of the States now to make, would make a State so small as Rhode Island or as Delaware? We go by facts, by circumstances, and by the condition of the country, and by the application of sound considerations of policy to that condition and to that state of things.

It has been urged, Mr. President, that if you admit California with her proposed limits, you create a danger as to the continuation of this Union. Why, sir, cut her up as you may, if there is a disposition upon the Pacific to fly off from this Union—and I have never dreamed that the connection would be eternal—will that disposition be less capable of being carried into effect by a combination between two and three States, or by a single State, properly known as California? If there should be a disposition for a separation, that disposition would be common to every State on the Pacific though that number should be two, three, or four. But this is a danger equally applicable to Texas, not quite so imminent, because of the proximity of Texas to the residue of the Union. But if Texas, from the vastness of

her limits, and from other considerations, chose to consider it her interest to separate herself from the Union, the danger would be only less by the distance which California is to the residue of the Union and the nearer proximity of Texas.

Mr. President, I stand here as the guardian, not merely of the rights, and honor, and interests of one section, but of all sections, as far as my humble abilities can be applied to protect that honor and to preserve those rights and interests. But I must own that it is perfectly incomprehensible to me to perceive how the rights or the honor of the South can be appeased by a greater or less extent of territory given to California. The rights and honor of the North were not appeased by the vast extent of territory given to Texas. No, sir. It is not a question in which the honor of any section of the Union is concerned. It is not a question in which the rights of any section of the Union are concerned. If the rights—I should rather have said the wishes—of any section of the Union are concerned in the creation of a new State out of the present limits of California, those wishes, or those rights are to be found located, not in the South, but in the North. For, as certainly as the sun rises in the east and sets in the west, as certainly as the waters flow from the foot of the Rocky Mountains and discharge themselves through the channel of the Mississippi into the Gulf of Mexico, so surely will the formation of a new State on the shores of the Pacific ocean, by circumscribing the limits of California, result in the formation of another free State. How, then, I ask, are the rights or the honor of the South to be affected by the extent—comprehensive extent, if you please—of the limits of California? I earnestly beg my honorable friend to consider this subject.

Mr. President, it is said that this question of the limits of California is a question in which that State has arranged them in a manner unsatisfactory perhaps to every member of this Senate. Most free am I to admit that, if this were an original question and a single question, standing by itself, with no commitments, I might be disposed to look much more carefully into the question than I think it now, under all the circumstances of the case, deserves. But I have not yet heard answered the able and forcible argument of the senator from Massachusetts (Mr. Webster), who took a general survey of the whole territory of California, examining its waters, its mountains, its deserts, its arable land. According to the result of his argument, it will appear that, with all the vast extent of the limits of California, when you come to deduct her mountains and deserts and unprofitable and uncultivated lands, there will not be left more—and I venture to say there will be much less left—of actual arable land, than is now included in the State of Illinois.

But, Mr. President, all human questions almost, or rather few human questions, stand alone by themselves, and I now state to you, and to the country, what commends to my acceptance the limits of California as she presents them. Sir, we are engaged in a great work of compromise, in

system of measures; and when I come to speak on the general subject, I undertake, and in advance I pledge myself, to show, so far as reasoning upon any moral and political questions, and their consequences, can enable one to demonstrate, that if this entire system of measures is adopted, there will be a revival of that concord which is so much needed; and an aversion of that danger which we all so much dread. But, sir, I reserve that for the occasion, if God spares my life and health, when I come to take a general examination of this bill. I am now considering the admission of California as not an unmixed question, as the senator from Alabama (Mr. King), viewed it, but as a part of a system, as part of a whole, as part of a scheme of accommodation and settlement of these great questions, to restore harmony and to put an end to this discord and division; and it is in that way that it commends itself to me; it is in that way that I am disposed to overlook any irregularities; and even to admit the State with all her extensive limits, considering it as a part of a great whole, which whole is to carry the balm of peace and contentment to a distracted country. I think, therefore, that it ought not to be treated as a separated and isolated question. It should be taken in connection with that system of measures which has been presented by the labors of the committee of thirteen, in order once more to tranquillize this country. Now, sir, the effects upon the representation in the two Houses of Congress by the adoption of this amendment is this: the representatives from California can not be admitted, in my humble opinion—at least I have such doubts upon the subject as to amount almost to positive conviction—they can not be admitted without being remitted back to the State which sent them here. If you make another State, as you do by cutting off the south of 35° 30′, one State will have sent senators and representatives and another State, distinct from that which has sent them, is admitted, and these members of the Senate and House of Representatives are allowed to take their seats. Now, upon this subject I have doubts approximating to conviction; and, inasmuch as I think that it would destroy the completeness and harmony and perfection of the whole system of measures comprehended in the bill before the Senate, and in the bills which are behind, to be taken up in order when this is disposed of, I would go for the admission of California with her present limits, even if there were more ground of exception to them than I think exists.

Mr. President. I have two or three remarks to make in reply to my neighbor who is near me (Mr. Berrien), and I must say, that if he meant to apply to me the observation with regard to the avowal of a disposition to judge of amendments without regard to their merits, but according to their effect upon votes, he did me injustice.

Mr. Berrien. The senator misunderstood me. I had no such intention; I made no such application.

Mr. Clay. But the senator stated that there had been such an avowal repeatedly made upon this floor, and I did not know to whom he referred.

I only mean to say this now, that there have been some amendments made to this bill which I should not care the pinch of snuff I hold in my fingers, whether I vote pro or con. upon it. One of them is the interdiction on the power of the territorial Legislature to admit or exclude slavery; another is the provision with respect to the passage of municipal laws in regard to slaves who have no existence there, and who are not going there, according to my profound conviction. I do not speak for others, who may have chosen to regard them differently, but, according to my understanding, and my interpretation, some of those amendments had no merit, and therefore I was indifferent about their fate, and I was willing to vote for or against them, as might be agreeable or otherwise to others of my colleagues.

But, Mr. President, the senator from Georgia has advanced a position which I controvert entirely; and what is that position? That if Congress admits California, it admits California with her restriction as to slavery, and that admitting California with her Constitution restricted as to slavery, is equivalent to the passage of the Wilmot proviso. I deny it. I utterly deny it, sir. I am not now speaking of consequences, of effects, but of power, of authority. What has been the doctrine of the South throughout this whole controversy, for three or four years past, with regard to the imposition by Congress of restrictions upon the Territories as to slavery? The doctrine of the South, and of the senator from Georgia among them, has been, that Congress has no power over the subject, that Congress has no constitutional power to impose the interdiction, and that, if Congress does impose it, it is a usurpation of power. That is their doctrine. I do not mean to say that it is my own. My opinions have been expressed; it is not necessary to repeat them; but that is the doctrine of the South, and that is the doctrine which I am combating. Now, sir, with regard to admitting a State having of itself inserted an article prohibiting slavery. Does Congress pass upon that article? Does it pass upon any provision? Can it constitutionally pass on any provision contained in the Constitution of a State submitting itself to be admitted into the Union? The sole inquiry is, is it a republican Constitution or not? That is the single restricted inquiry which Congress can make. If there are provisions of a local and municipal character, provided they do not impair the republican form of the government, Congress is not responsible for them one way or the other; it is their own affair.

And, sir, when speaking of the doctrine of the South, let me remind you that one among the wisest and most eminent of southern men [Mr Calhoun], not three years ago, by a resolution submitted to this Senate declared the doctrine to be that a State, when forming for herself a Constitution, and proposing to come into the Union, had exclusive power to decide for herself whether she would or would not have the institution of slavery.

Now, Mr. President, I am not going into that sophistry into which

might be led by the argument that when Congress admits a State, and that State has interdicted slavery, that therefore Congress has interdicted slavery. Congress has no such power. The power of Congress is limited to ascertaining that the character of the State Constitution is a republican one. Now, sir, the difference between the case put by the senator from Georgia and the case before the Senate—between the exercise of the power by Congress and the exercise of the power by the State—is a case of the difference between the usurpation of power (in his view of constitutional doctrine) and the legal, lawful, constitutional exercise of power by a State which has chosen to judge for itself. He has confounded usurpation and lawful authority, legality and illegality, what may be done by Congress and what may be done by a State. If you can upset every thing, mix all the matters together, and say that right and wrong, authority, and the absence of authority, are the same, why then the opinion might triumph that, although we are limited to a solitary inquiry in the admission of a State, that the interdiction of slavery acquires a legality by our act which it would not otherwise have possessed.

Mr. President, I come back to the question before the Senate. I am sorry I have been drawn so far. I came to the Senate quite indisposed to-day, and not expecting, in that condition, that I should be drawn into any discussion on this subject. Sir, if there had been a prior territorial government established in California, by the authority of Congress, and that authority had also extended to permitting her to organize herself as a State for the purpose of coming into tho Union, and she had gone in under that territorial government, and under that authority, and made such a Constitution as she has made, interdicting slavery within her limits, would it then be contended, would it then be urged, that Congress imposed the prohibition of slavery? Surely not. No more, then, can it now be contended that Congress imposes the interdiction. Congress has, I admit it, full power to admit or to reject the State of California, unbound by any constitutional restriction, unrestricted by any single provision in the Constitution of the United States. Congress has plenary power, and if, in the exercise of that power, Congress thinks proper to dispense with certain formulary and regular modes of proceeding that have been adopted in the instances of some other States, there can not be a doubt about the power, however much gentlemen may question the expediency or the soundness of the discretion.

Mr. President, I am, as might be well supposed, anxious for the passage of this measure. I thank the honorable senator from South Carolina [Mr. Butler] and the senator from Georgia [Mr. Berrien] for the expression of their friendly wishes that any credit or honors which might accrue from its passage might be my share and my lot. Mr. President, I do not think about myself. I care not about myself. Man or mankind have no honors or offices in their gift which I expect, which I want, which I desire. Poised, as I feel myself in some degree at my time of life, between heaven and earth, my hopes, my faith, my confidence are toward the former, and

I only desire, while I remain upon earth, while I linger yet a few years here, to perform all the duties and all the obligations which result from my connection with that society of which I am an humble member. These are the feelings with which I came here. I desire no éclât whatever. I have said twenty times that I was willing to take these measures in any form—yes, willing to take them in the conjoint form in which they are presented, or in a separate form, or in any mode; that I was wedded to no particular plan of harmonizing and tranquillizing this country. That is the end, the object—the great and (if I may be allowed to use an expression which perhaps may be deemed by some extravagant) the God-like object of restoring peace, and contentment, and harmony, to this people, that has all along animated me, without any desire at my time of life to add any thing whatever to the reputation which I may have acquired by any former public services in the councils of my country.

I can not vote for this amendment. I would do it with infinite satisfaction, if I could reconcile it with my judgment, in contemplating the beneficent effects which I think are to result from the successful adoption of the whole plan of settlement and accommodation which has been proposed by the committee. The senator from Alabama—and my friend from Georgia also—knows that if I could make any personal, individual sacrifice, unaffecting the interests of my country, as I regard them, there is no man for whom I would make the sacrifice more willingly than for himself; but I believe the interests of the country require that the bill should be kept as it is.

As to the fate of the measure, I am prepared for it, whatever it may be as I am prepared for any event to which I may be exposed during the remnant of my days. Its fate, I know, is not absolutely certain. I have hoped and believed throughout that it would carry, and I have believed that it ought to carry, because of my perfect conviction of the beneficent effects which would result from the adoption of the scheme. But if it is not to carry, if defeat awaits it, I will not yet despair of the country. I will still hope that others, under better auspices, with more good fortune than may have attended the labors of the committee and myself, will bring forward some great, comprehensive, healing measure to reunite the Union of our country. If its fate be adverse, I submit. I resign myself to it. I shall have the consolation of knowing that I have sought most anxiously to perform my duty, my high duty to my country, to its Constitution, and to every part of that country. I shall feel no other regrets connected with its failure, if that should be its fortune, than those which belong to this distracted people and this menaced country. On my own account none—none whatever shall I have occasion to feel in the smallest degree.

Sir, I beg pardon for having trespassed on the Senate so long. I came here, believe me, with no expectation of saying one word upon this subject, but I have been drawn on in the performance of my duty, as chairman of the committee, to defend and support the measure. * * *

Again, same day, Mr. Clay said:

I will answer the gentleman's argument, and if not to the satisfaction of the members of the Senate and the gentleman himself, I am greatly mistaken. California is a State, at this moment, but not a State in this Union. That is my answer. What is a State? What makes a State? Go to the elementary writers, and they will tell you people, territory, certain landmarks of qualification which are defined in all the books. The error of the honorable gentleman consists in this, that his mind has been directed to the consideration of the question of fact whether she is a State in this Union. Well, I say that she is no State in this Union, but she is a State out of the Union asking for admission as a State into the Union.

So with regard to the other point of the senator, that no people have a right to take possession of any portion of the public soil or domain of the United States, and to erect themselves into a commonwealth, or to assume the government of that territory. I admit that. I admit that they have no such right. But if they choose to exercise such a right, and to organize themselves into a State, occupying territorry in part the property of the United States, and in part the property of individuals, and they come here to be admitted as a State, and we waive all these irregularities on their part, the moment she is admitted, she is a perfect and complete State. That is my answer to the honorable senator.

Also, in reply to Mr. Berrien, of Georgia, he said:

I do not know upon what authority the senator from Georgia has made the declaration that the friends of this bill commit the error of thinking this to be the only measure of salvation to the country. We have again and again avowed our desire to see any such measure proposed, to which we will give our hearty support. And if this bill shall fail, I assure the senator from Georgia that we are not so wedded to it but that we can accept, with alacrity and pleasure, one that will better secure the object in view. I hope the senator and his friends will come forward with his scheme of comprehensive measures, and let us see if he can produce one more likely to attain that end. We have rejected amendments, it is true. When gentlemen get up one moment and say that Congress has no power over the subject of slavery, and at the next moment ask us to exercise power over it, we can not consent to do what they ask. We compare their opinions of the Constitution with what they solicit from us. But let that pass. Congress, it is maintained, has no power to create a State! Why, all the new States of the Union have been created more or less under the authority of Congress. First, the land of a Territory was sold and settled, and being settled, the settlers had authority given them to make a Constitution and organize a State. Is not that creating a State by the action of Congress? But this is not a case of Congress creating a State. There exists now a State *de facto;* that is the language applicable to it in the public law of the world. There exists a State *de facto*, and that State comes and asks

as to make her a State *de jure*, a member of the Union. We have not created it. Did Congress organize the Legislature? Did it make the Constitution? Did it pass the laws for collecting the revenue? Did it do all these things of a municipal character, which are now transacted in the State of California under the authority of her Constitution? All these were matters resulting from the organization, which, whether with or without authority, *de facto* existed; and that *de facto* State comes here to ask admission into the Union. Why, the Commonwealth of England, during the reign of Cromwell, was a government *de facto*, but was it not a government? Was it not a State, having armies, navies, coining money, making war, exercising all the attributes of a sovereign State, a State *de facto*, as the line of kings choose to call it. So here the State of California is a State, illegal if you please, irregular in its conception, but nevertheless a State, consisting of territory, people, and all the attributes of a sovereign power—a State not made by Congress, but a State, if admitted into the Union, admitted by Congress as a pre-existing, fixed, and indisputable fact Why, if we go a little into the history of our own country, what do we find? How came the Declaration of the Independence of these States, which made the Thirteen Colonies a State? It was done by a Congress having no authority to do it, by any delegated power which they possessed. They did act, and it was sanctioned by their constituents and the people of the United States. So of the existing Constitution of the United States—how came it into existence? Why, it was made by a convention in Philadelphia, assembled, not for the purpose of making an original Constitution, but for the purpose of amending the ancient articles of confederation. They chose to put it all aside, and to make a Constitution for a State, or for thirteen States, and to submit it to the people; and the ratification of the people was retroactive, and supplied the original defect of power, and made that legal and constitutional which originally was not so. But a more memorable instance is at hand—a case out of which have grown all these questions. What was the condition of the treaty of Guadalupe Hidalgo? Was it not a perfectly void instrument, absolutely and utterly void, not to resort to the distinction which jurists take and lawyers make, but an absolutely void act? Well, sir, this void treaty came here, and did Congress create the treaty between Mexico and this country Just as much did they create that treaty as they create this State, if they admit California—a *de facto* State, not inside, but outside of the Union—which comes here and asks admission into the Union. No, sir, you sanctioned that treaty, you rejuvenated it, you revivified it, you reanimated it, you restored the original date, and you gave it validity from the day of that date. Sir, instances might be multiplied without number, both in the great transactions of nations and those of individual character, if it were worth while to multiply them.

Mr. President, what is proposed by the very amendment itself, which the senator vindicates and supports? Does it not propose to make

State? Why, yes; and the sole difference between our State and his State is, that he wants to confine his State within the limits of the Sierra Nevada, and north of 35° 30′, and we contend for the whole. Now, at this very moment, when he is contending that there is no State there with a legal existence, but a mere Territory, and a band of disorderly, licentious men, who have united together—I do not attribute these expressions to the senator, but that is the substance of his argument—when men unauthorized have settled on that Territory, and without authority have come here with a State Constitution, the senator himself and the senator from Alabama (Mr. King), propose the admission of a State from that Territory, with restricted limits, embracing territory not quite so extensive as we contend for.

Mr. President, while up I can not help calling the attention of the Senate, and of the senator from Georgia particularly, to the too great facility of making constitutional questions out of questions of mere expediency. We were told the other day that it was a constitutional question whether we should allow two representatives in the other House from California. Why, what constitutional question was there? It is a question of evidence as to population. The Constitution says nothing about it, except that no State shall have less than one member. It does not limit the power of Congress to grant any number of representatives beyond the one. And the question, therefore, whether California is entitled to two or more members, or to only one member, is a question of evidence and not of constitutional power. A census is required, but what is a census? It is evidence—evidence of a high character, but any other evidence which satisfies the human mind and convinces the human judgment where a discretionary power exists, is just as ample and satisfactory as the higher kind of evidence which the census presents. With regard to her population, so much is it my misfortune to differ with the senator from Georgia, that if California had been assigned three members, I should have found myself fully justified, from the evidence and information which has reached me, to consent to her having them. The facts are so multifarious, the evidence is so conclusive, and the information so copious, that it is almost difficult to discriminate and distinguish between them. The other day, a man who knows California well, who is not six weeks returned from there, and who is the author of one of the best works that has been published on that country (Mr. Bryant, an old neighbor and friend of mine), was in my room. Tell me now, Mr. Bryant, said I, what is the population of California at this time? Said he, I do not doubt that at this moment it is full one hundred and fifty thousand, and that before the end of the year seventy-five thousand more will be added to it. And what was declared at a public meeting of the citizens of California, a large and extensive meeting, in April last, as the state of facts with regard to their population? Why, that they had at that time, in April last, a population of one hundred and forty thousand; and this coincided with remarkable exactness with the information

communicated to me by Mr. Bryant some two or three months after. Well, what is the character of the population of California? There are more fighting men in her limits than there are in Georgia. I do not mean more gallant or more valorous men, but more in number—because not two per cent. of her population consists of females or children. They are hardy enterprising young men, who have gone out from among us, bone of our bone and flesh of our flesh, inheriting from us that bold spirit of enterprise that we have received from our ancestors, and who have gone there to seek their fortunes and establish a home on the Pacific.

And if Georgia can raise one hundred and fifty thousand fighting men, gallant and chivalrous as she undoubtedly is, it is a much larger number than I suppose she could; and unless she can do that, I believe California to-morrow can exceed her in the amount of her militia force or of fighting men. This being, then, no constitutional question—for, as I humbly conceive, the amendment of the senator from Alabama addresses itself altogether to the discretion and the judgment of Congress—and one which does not impair or affect the rights of either the South or the North, nor the honor of either section, I trust that we shall argue it as a question of expediency, and not as a constitutional question.

I conclude by saying that in the admission of California, if admitted, we do not create any State, though I contend that the power exists on the part of Congress, by the successive acts of a Territory, to create a State. I contend that in admitting her, we admit her on the sole condition imposed by the Constitution—that her Constitution shall be republican in character. I contend that we are irresponsible for any other provision in her Constitution, just as much so as if Indiana should to-morrow introduce slavery into her limits, we should not be responsible. We should not be responsible for the introduction of slavery into Indiana, although it might be contended, as now: You admitted Indiana, and Indiana having become a State, and invested with the power to admit slaves, she did admit slaves; and therefore you admitted slaves into Indiana. Now that is the sort of argument we have heard to-day. Because we exercise a constitutional power which we have, the argument is, that we exercise it on subjects on which we have no constitutional authority to act whatever. I have no more to say.

Mr. Clay also remarked:

I wish to say that, according to the usages of every deliberative body with which I have had any acquaintance, it has been accorded to the individual who happens to have charge of a great measure an opportunity of making a general reply, in conclusion, upon such topics connected with the whole argument as might be supposed to affect it. I have long been desirous of reaching that point in the progress of the bill, so that I might be able to perform that duty. I would have been glad to have said a few words from time to time upon the various amendments, but refrained from doing so as much as possible. But the general summary or reply to the

leading topics of objections to this great measure with the effects, the consequences to the whole country of its adoption or rejection, I had reserved to the last moment; and I had hoped that there would have been no objection to indulging me in the exercise of that common courtesy, which is accorded on all occasions in legislative bodies to him who has charge of an important measure. Still, sir, I would add, if it is the pleasure of the Senate to come to a vote at once, I shall acquiesce; for no one is more desirous than I am to arrive at a conclusion, and to have this question settled—settled definitively, settled absolutely. If the bill is to be defeated, I should prefer that it should be by indefinite postponement, rather than by laying it on the table, whence it may be taken up at any time; for really, the state of my health is such as to render it absolutely necessary for me to repair to some sea-bathing place, so as to endeavor to invigorate it a little. If the bill is indefinitely postponed, I shall feel myself relieved from it; whereas, if it is laid upon the table it becomes a mere test question, and it may be taken up again at any time; and I should be sorry if it was taken up in my absence. If, however, it should be the wish of the Senate, that there should be no further debate upon it, I shall submit with pleasure.

I repeat that I am anxious to arrive at a final decision of the question. There is one proposition of amendment to make which I intended to make to-morrow—a proposition which might occupy the greater portion of the day—I mean the proposition to fill up the blank in regard to the amount to be paid to Texas. It will probably be a subject of some discussion whenever it is proposed. There will doubtless be a variety of propositions, and the yeas and nays will most likely be taken on each, and that may exhaust the day. My own opinion is, that we may arrive at a definite conclusion by Tuesday next; I fear not before that day. I am afraid, if the Senate should indulge me in listening to the address which I propose, and which only from a sense of solemn duty I feel anxious to make, there would not be time to-morrow. I should prefer Monday. And so far as depends upon me, I will consent most readily to have a final decision on Monday or Tuesday next.

A GENERAL REVIEW OF THE DEBATE ON THE COMPROMISE BILLS.

IN SENATE, JULY 22, 1850.

[It was now two months and a half since the report of the Committee of Thirteen was made, and it had been under debate, more or less, all this while. It was incumbent on Mr. Clay, who had charge of these measures, as chairman of the committee, not only to watch the progress of the bills, but to answer all objections to them. On the date above named, he set himself to this task, in the delivery of the following speech.]

Mr. President—It is known to the Senate that it has been my hope and expectation that we should dispose of all the amendments either proposed or to be proposed to the bill, and that upon the question of its engrossment I intended, with the permission of the Senate, to occupy some portion of its time in taking a rapid review of some of the objections that have been made to the adoption of the measure under consideration, and then to submit it into those hands in which, by the Constitution of the country, the responsibility is placed. The events of Saturday, of which we possess information, deprived us of the opportunity of employing that day in the consideration of those amendments which were intended to be submitted, or were yet before the Senate. But as some rather impatient anxiety has been manifested to arrive at the conclusion of this important subject—an anxiety in which, to some extent, I share with others—I have risen this morning to perform a duty toward the committee and to the subject which my position prompts me to endeavor to execute.

I say some impatience has been manifested. I do not mean it in any unkind sense. The honorable senator from New Hampshire (Mr. Hale), who now sits on my left, has upon two occasions moved to lay this bill on the table; and his motion was made with all the air of conscious power—as if he felt perfectly secure not merely of the general result, but in his being co-operated with by all the opponents of the bill. It is true that the senator finally most graciously condescended to withdraw his motion to lay the bill upon the table, at my instance, for which I am profoundly grateful. But as I do not desire again to place myself in any attitude of solici-

tation with regard to the progress and the final disposition of this bill, I have risen, I repeat, now to perform a duty which appertains to my position.

Mr. President, in the progress of this debate it has been again and again argued that perfect tranquillity reigns throughout the country, and that there is no disturbance threatening its peace, or endangering its safety, but that which was produced by busy, restless politicians. It has been maintained that the surface of the public mind is perfectly smooth and undisturbed by a single billow. I most heartily wish I could concur in this picture of general tranquillity that has been drawn upon both sides of the Senate. I am no alarmist; nor, I thank God, at the advanced age at which his providence has been pleased to allow me to reach, am I very easily alarmed by any human event; but I totally misread the signs of the times, if there be that state of profound peace and quiet, that absence of all just cause of apprehension of future danger to this confederacy, which appears to be entertained by some other senators. Mr. President, all the tendencies of the times, I lament to say, are toward disquietude, if not more fatal consequences. When, before, in the midst of profound peace with all the nations of the earth, have we seen a convention, representing a considerable portion of one great part of the republic, meet to deliberate about measures of future safety in connection with great interests of that quarter of the country? When before have we seen, not one, but more—some half a dozen—legislative bodies solemnly resolving that if any one of these measures—the admission of California, the adoption of the Wilmot proviso, or the abolition of slavery in the District of Columbia—should be adopted by Congress, measures of an extreme character, for the safety of the great interests to which I refer, in a particular section of the country, would be resorted to? For years, this subject of the abolition of slavery, even within this District of Columbia, small as is the number of slaves here, has been a source of constant irritation and disquiet. So of the subject of the recovery of fugitive slaves who have escaped from their lawful owners; not a mere border contest, as has been supposed—although there, undoubtedly, it has given rise to more irritation than in other portions of the Union—but everywhere throughout the slaveholding country it has been felt as a great evil, a great wrong, which required the intervention of congressional power. But these two subjects, unpleasant as has been the agitation to which they have given rise, are nothing in comparison to those which have sprung out of the acquisitions recently made from the republic of Mexico. These are not only great and leading causes of just apprehension as respects the future, but all the minor circumstances of the day intimate danger ahead, whatever may be its final issue and consequence. The establishment of a paper in this city—a sectional paper—and I wish I could say that upon all occasions it propagated truth with more attention than in a particular instance it has done—a sectional paper is established here to espouse, not the interests of the entire Union, but the interests of a particular section. The allusion I made with regard to a departure from the truth,

which has incidentally come to my notice, was called forth by an assertion made, that in the State of Kentucky there was existing great diversity of opinion upon the subject of the adoption of this measure, and that the constitutional convention of that State had unanimously, or nearly unanimously, rejected a proposition in favor of the compromise. Why, directly the reverse is the fact. I should not have observed it at all, had I not noticed on yesterday that it was copied in a paper in Mobile, and was spoken of as an undoubted fact that even in the State of Kentucky there was great division on the subject of the compromise. I will say in my place, with the authority which appertains to my position, that for fifty years I have never known so much unanimity upon any question in that State. It is a State from which I received a letter from a gentleman, formerly a democratic member of Congress, known very well to my friend from Indiana, now in my eye, from the county of Henry, one of the most populous counties in that State, in which there is a majority of democratic voters, and in an aggregate of nineteen hundred voters, this gentleman—an honorable gentleman I am proud to say, though I differ from him in politics—says that, as far as he knows or believes, there is no solitary individual to oppose it; and the constitutional convention of Kentucky, instead of opposing it by a unanimous vote of the body, expressed its approbation of this pending measure by a unanimous vote. One of the misfortunes of the times is the difficulty in penetrating the northern mind with truth, to make it sensible to the dangers which are ahead; to make it comprehend the consequences which are to result from this or that course; to make it give a just apprehension to all the events which have occurred, are occuring, or which must evidently occur. I said minor as well as major circumstances and events were all tending, rapidly, as I fear, to a fatal issue of the matters in controversy between the different sections of the Union.

I have seen a pamphlet—and it has been circulated with great industry—containing an exposition of political economy, written in a style well calculated to strike the mind of the masses, but full of error and exaggeration from one end of it to the other—errors of every sort—setting forth in the strongest terms the supposed disadvantages resulting from the existence of this Union to the southern portion of the confederacy, and portraying in the most lively hues the benefits which would result from separating and setting up for themselves.

Mr. President, I will not dwell upon other concomitant causes, all having the same tendency, and all well calculated to awaken, to arouse us—if, as I hope the fact is, we are all of us sincerely desirous of preserving this Union—to rouse us to dangers which really exist, without underrating them upon the one hand, or magnifying them upon the other.

It was in this stage, or state, rather, of the republic, that my friend from Mississippi [Mr. Foote], something more than four months ago, made a motion for the appointment of a committee, of thirteen. Unlike what occurred at an analogous period of the republic, when it was my duty to

make a similar motion in the other end of the capitol, and when, on account of the benefits which might result from the reconciliation of a distracted country, the proposition was immediately adopted—on the present occasion, unlike what occurred at that historical period, the proposition of the honorable senator from Mississippi was resisted from day to day, from week to week, for four or five weeks. An experiment to restore the harmony of the country, met with the most determined and settled resistance, as if the measure which the committee might report, whatever might be its character, would not still be under the power and control of the Senate, to be disposed of by it according to its own best judgment. Finally, however, the motion prevailed. A majority of the Senate ordered the committee to be appointed; and among the reproaches which were brought forward against the appointment of the committee by the senator from Massachusetts now in my eye [Mr. Davis], it was stated that that committee was organized and created by only a bare majority of the Senate. Sir, does such a reproach as that lie in the mouth of the senator, or of others who acted with him? A sense of my duty in this body, or in any body of which I am a member, prompts me to respect the opinion of the majority of the Senate, and to conform to it as far as is consistent with my views, and when not so to record my vote along with the minority. But in this case, upon the constitution of this committee, only about thirty or thirty-one members of the Senate voted at all; because the honorable senator, and others who concurred with him in opposing the constitution of the committee, chose to sit by in sullen silence, although members of the body —a minority of the body, it is true—without voting, as it was their duty to do. Is the contumacy on their part now to be made a ground of objection to the character, constitution, or labors of this committee?

Well, the committee was finally raised and went out. Of its composition it does not become me to speak, nor is it necessary to say any thing. The country, the Senate, will judge of that. Without, however, saying a word in respect to the humble person who now addresses you, I may be permitted to say that a large portion of that committee consisted of gentlemen who had honorably served their country in the highest stations at home and abroad—men of ripe experience, and whose large acquaintance with public affairs entitled them at least to respectful consideration when they were engaged in the holy office—if I may use the expression—of trying to reconcile the discordant parts of this distracted country. After having expended some two weeks upon their labors in their chamber, the committee agreed upon a report deliberately made. It had hardly been presented before all sorts of epithets were applied to the committee. They were called the thirteen doctors, not in kindness—for the honorable senator from New Jersey [Mr. Dayton] seemed not only disposed to deny their healing powers, but to intimate even that they were thirteen quacks [laughter]; that, instead of bringing forward a measure to cure and heal the public disease, they had brought forward a measure that only aggra-

vated the disorders of the country, and calculated to threaten it with more agitation. Mr. President, I need not use one word of recriminatory language. I leave it to the Senate, and to the country, and even to the senators themselves who have indulged in such expressions, deliberately to consider whether a measure intended, at any rate, as an olive branch, presented under such auspices as this was, ought to have been so treated, and whether the committee who presented it ought to have been so treated?

Well, sir, the committee presented their measure, or rather their system of measures, coextensive with all the existing disorders of the country, in relation to the subject of slavery—a system which, if allowed to produce its beneficent effects—and which I entertain the highest confidence it will produce, if it be adopted by Congress—leaves nothing in the public mind to fester and agitate the country.

The first three measures reported by the committee are those now under consideration—the admission of California, the establishment of territorial governments for Utah and New Mexico, and the adjustment of the boundary between New Mexico and Texas. With respect to the other two measures, I shall say but little at this time. It will be in order to speak of them when they come up for debate. I can not forego, however, the opportunity of remarking that really I think the honorable senator from Virginia [Mr. Hunter] has manifested too much eagerness to go aside to make occasions of fault-finding with the character of those measures. He has misrepresented, as I think, not intentionally no doubt, but misrepresented, as you yourself showed very properly, the nature of those bills. But, whatever may be their character at present, when they are taken up to be considered by the Senate, it will be in the power of the Senate to modify them according to the wishes of the honorable senator from Virginia. In two important particulars that senator misconceives the character of these two measures. First, in relation to the remedy by record in the recovery of fugitive slaves. That was intended to be, as his colleague could have told him, merely a cumulative remedy to that already in existence.

Mr. Mason (interposing). I am sure the senator will indulge me one moment. My colleague is not now in his seat. When he proceeded to discuss this measure upon a former day, he was promptly called to order and not allowed to proceed. I do not intend to call the senator from Kentucky to order, but I submit to the senator whether it is altogether courteous to refer to remarks of my colleague which he was not allowed to pursue.

Mr. Clay. I do not mean to go further than the senator himself did. I have remarked that I do not mean to argue this question at large. I wish to answer the objections only which were urged, after which I shall pass over the subject. I should have almost concluded by this time, if the honorable senator had not thought it his duty to interpose. I was merely

going to observe that the remedy of carrying a transcript of the record to the State to which the fugitive had fled, which his colleague alluded to, in the bill for recovering fugitive slaves, was merely cumulative. And I also intended to observe that there is nothing in the bill which proposes the abolition of the slave-trade in the District of Columbia, which prevents the slaveholder from passing through the District, in transitu, with his body servant—nothing to prevent him from retaining him here in his possession. The only object was to revive the law of Maryland; and to declare that if a slave be brought here for sale, then the person who brings him here for that purpose shall be liable to the penalty provided for in the law. But I pass from this subject. I mean to confine myself, while I address the Senate, to the three pending measures.

Mr. Hunter. Will the senator from Kentucky allow me to explain? I do not wish to prevent him—because I was called to order—from going into the subject as fully as he may choose. I hope he will be permitted to do so, if he has any such desire. In relation to that provision of the act prohibiting the slave-trade in the District of Columbia, he will find, if he will refer to that resolution, that it contains a prohibition of an introduction of slaves here for the purpose of being transported elsewhere. If that prohibition to transport them elsewhere would not cover the case of a man who has arrested a fugitive, and brought him and deposited him here while on his way home, or that of the man who should be accompanied by his slaves while emigrating to anothor country, I do not know what language could be framed that would do so. I have not the resolutions by me, or I would read the provision.

Mr. Clay. I am pretty sure the honorable senator is mistaken, and that it will be found so upon looking at the bill. He speaks of resolutions. I put it to the candor of the Senate, why the honorable senator should go back to the resolutions offered by me in the beginning of the session. The question is not with regard to them, or whether they be compatible or not with the measures reported by the committee, but in respect to the bill, which differs in several important particulars from my resolutions. The committee presented such measures as were agreeable to them; and with respect to the abolition of the slave-trade in the District of Columbia, it was their intention simply to revive the law of Maryland, and to provide for the case of the introduction of slaves into the District as merchandise.

Mr. Hunter. The senator will pardon me. When I used the word 'resolutions" I meant the bill, and I find on examination, that the bill is as I have stated.*

* The bill referred to was reported to the Senate by Mr. Clay on the 8th of May, entitled "A bill to suppress the slave-trade in the District of Columbia," and provides as follows:

Be it enacted, That from and after the —— day of —— next, it shall not be lawful to bring into the District of Columbia any slave whatever, for the purpose of being

Mr. Clay. Very well. With regard to the intention, that is as I have stated. If the language does not effect that intention, we should all be very willing to give it a form acceptable to the senator from Virginia. The language was only designed to prohibit that slave-trade which consists of purchasing and bringing slaves into the District of Columbia, and putting them into dépôts here for the purpose of being transported to foreign and distant markets. As to an idea which has been mentioned here upon a former occasion, I have already said that if a person residing in the District chooses to go out of the District five or ten miles, and purchase slaves for himself, the law would not prevent him from doing so. But I am taking up more time on this subject than I intended. When the proper time arrives for its discussion, the bill will be vindicated from the errors, into which, I still think, the honorable senator from Virginia has fallen. I have stated that it was my intention to confine my observations to the three measures under consideration—the admission of California as a State, territorial governments for the two Territories, and the establishment of the boundary between Texas and New Mexico.

It is a most remarkable circumstance connected with the debate upon, and the progress of this measure, that that feature of the bill which was supposed to be less likely to encounter objection—that measure which it has been asserted would draw after it, by the force of its own attraction, the other measures contemplated in the bill—it is truly remarkable that the measure of the admission of California has encountered the most of the difficulties which have been developed in the progress of the bill. The senator from Louisiana [Mr. Soulé], the senator from Georgia [Mr. Berrien], and yourself, sir [Mr. King], have all directed your attention mainly to the subject of the boundaries of California, and to the representation proposed for California by the measure under consideration. I believe, with very slight, if any further modification, all three of the senators to whom I have referred would have been willing, if they could have been satisfied with regard to California, to vote for the whole measure. But it is California which we have been charged with introducing into this bill for the purpose of conciliating support for other measures; it is California that has created all the difficulties, or at least the chief part of the difficulties, which the bill has encountered. Now, Mr. President, what may be the ultimate vote which may be given, in consequence of the mode in which California is bounded, by the three senators to whom I have referred, depends upon their own judgment, and upon their own proper sense of duty. I must say to them—and I hope they will take it in the same kind and candid spirit in which it is mentioned—that I can not see the slightest reason why they should reject the whole measure because there is something in it dis-

sold, or for the purpose of being placed in dépôt, to be subsequently transferred to any other State or place. And if any slave shall be brought into the said District by its owner, or by the authority or consent of the owner, contrary to the provisions of this act; such slave shall thereupon become liberated and free.

satisfactory to them in respect to California. They know that if this measure is defeated, the chairman of the Committee on Territories [Mr. Douglas] will call up the California bill separately, and that it will be passed as it is—with all its exceptionable features of extended limits and full representation—in both Houses by a considerable majority. Will they, then, on account of the California part of the bill—the passage of which, when presented singly, may be regarded as an inevitable event—will they on account of any difficulties not amounting to constitutional difficulties—for I admit, if gentlemen have, on a deliberate review of their opinions, difficulties of a constitutional nature, nothing can or should overcome them—will they be constrained from the necessity resulting from entertaining those opinions, to vote against the entire measure?

But, sir, as I happen to hold directly the opposite opinion, that there is nothing constitutional in any of the objections taken to the admission of California, and as I trust these senators will themselves perceive that there is no constitutional ground of objection—that it is altogether matter of expediency, addressing itself to the sound discretion and deliberate judgment of Congress—I do hope and trust, on account of the objections that exist to the admission of California, when they perceive it is a part of a great system of reconciliation and harmony to the country, they will not be disposed to reject the benefits and compensations to be found in other parts of the bill; because they know full well that California, just as she has presented herself, with the representation proposed by her, will be inevitably admitted, provided this bill is defeated. They must also well know that the admission of California alone, without any measure accompanying it, will have the unavoidable tendency of aggravating the sense of wrong and injury—whether well or ill-founded—that exists in the quarter of the Union from which the senators to whom I referred come.

With respect to the territorial governments, it is also a fact worthy of remark that scarcely a senator who has risen upon this floor has failed to acknowledge the duty of Congress to provide territorial governments. Every senator, almost, who has spoken on the subject, has admitted that territorial governments ought to be provided; some wishing for the Wilmot provisio, and others objecting to the proviso; but with or without the Wilmot proviso, I have not heard a solitary senator say that it was not the bounden duty of Congress to institute territorial governments for these Territories.

With regard to another plan of disposing of the question—the plan which, upon a former occasion, I characterized as the plan of the executive—of the late President of the United States—I shall have a few brief observations to make. Allow me to take this occasion—the only suitable one, in my opinion—of expressing my deep regret and my profound sympathy with the family of the illustrious deceased. I had known him, perhaps, longer than any other man in Washington. I knew his father before him—a most estimable and distinguished citizen of Kentucky. I knew the late

President of the United States from the time he entered the army until his death, although not seeing him often, in consequence of our operations in different spheres of public duty in our country. He was an honest man —he was a brave man: he had covered his own head with laurels, and had added fame and renown to his country. Without expressing any judgment upon what might have been the just appreciation of his administration of the domestic civil affairs of the country, if Providence had permitted him to serve out his term, I take pleasure in the opportunity of saying, in reference to the foreign affairs of our government, that in all the instances of which any knowledge has been obtained by me of the mode in which they were conducted by the late administration, they have met with my hearty and cordial concurrence. During the residue of the remarks which I may address to you, if I shall have occasion to say any thing upon the plan proposed by the late president, it will be with the most perfect respect to his memory, without a single feeling of unkindness abiding in my breast. Peace to his ashes! and may he at this moment be enjoying those blessings in another and a better world, which we are all desirous, sooner or later, to attain!

But with respect to the mode of getting over the difficulty in regard to New Mexico, the plan was that New Mexico should come in as a State, as soon as she had organized a State, adopted her Constitution, and presented it here. Now, Mr. President, the senator from New Jersey, who sits near me (Mr. Dayton), argued in this way: "You of the committee have given to the people of New Mexico the power of legislation, the power to elect their legislators, the power to pass such laws as may be best adapted to their condition; and where is the difference between the powers with which they are so invested, and receiving New Mexico as a member of the Union, represented in both branches of Congress?" Why, Mr. President, there is all the difference in the world. There is scarcely any people so low in the stage of civilization, even the Esquimaux, or the Indians on any portion of our continent, that they may not comprehend and be able to adopt laws suited to their own condition—few, simple, clear, and well understood, for, in their uncivilized state, it is not necessary for them to have a cumbrous code of laws. But it is a widely different thing whether the people of New Mexico may not be capable of passing laws adapted to their own unripe and yet half-civilized condition. I speak not of the American portion of the population there, but of the Indians, the Pueblo Indians, and some of the half-bloods. It is a very different thing whether they may not be capable of enacting laws suited to their own condition, or whether they may have two senators on this floor, and members in the other House, to survey the vast and complicated foreign and domestic interests of this great republic, and legislate not for themselves only, but for us and our present generation.

For one, sir, I must say I should be utterly unwilling to receive New Mexico as a State in her present immature condition. A census will be

shortly taken, and we shall then know the exact condition of her population. If I am not greatly deceived in my opinion, it will turn out that there are not perhaps one thousand American citizens within the limits of New Mexico, and perhaps not above eight thousand or ten thousand of Mexicans and mixed breeds, exclusive of Pueblo and other Indians, and they certainly not in a condition to comprehend the duties and attend to the rights and obligations which belong to the exercise of the government of the people of the United States. It will turn out, I am quite sure, when the returns of the census are made, that there is no stated population in New Mexico, such as would justify us in receiving her into the Union, and giving seats to be occupied by members from that State—may I not say it?—in this august assembly.

Now, sir, New Mexico herself was conscious of her own imperfect condition. New Mexico was desirous of a territorial government. If she has been pushed upon the proposal of a government of a different character, to which her population and her condition did not adapt her, it has only been in consequence of her extreme necessity, pressing her to despair upon her part of obtaining any territorial government.

Thus, then, Mr. President, we all agree about the necessity of a territorial government, with or without the Wilmot proviso. We all agree about the necessity of an adjustment of the Texas boundary—a boundary out of which I say there is imminent danger of springing—if the question be not adjusted during the present session of Congress—one, if not two civil wars —the civil war between the people of New Mexico, in resistance to the authority of Texas, to which they are utterly averse, and the civil war lighted up on the upper Rio Grande, which may, in time, extend itself to the Potomac. All, therefore, must agree—all have felt—every senator who has expressed his opinion upon this subject during the progress of this debate has avowed his conviction of the necessity of an adjustment, a compromise, a settlement of this boundary.

It has been objected against this measure that it is a compromise. It has been said that it is a compromise of principle, or of a principle. Mr President, what is a compromise? It is a work of mutual concession—an agreement in which there are reciprocal stipulations—a work in which, for the sake of peace and concord, one party abates his extreme demands in consideration of an abatement of extreme demands by the other party; it is a measure of mutual concession—a measure of mutual sacrifice. Undoubtedly, Mr. President, in all such measures of compromise, one party would be very glad to get what he wants, and reject what he does not desire, but which the other party wants. But when he comes to reflect that, from the nature of the government and its operations, and from those with whom he is dealing, it is necessary upon his part, in order to secure what he wants, to grant something to the other side, he should be reconciled to the concession which he has made, in consequence of the concession which he is to receive, if there is no great principle involved, such as

a violation of the Constitution of the United States. I admit that such a compromise as that ought never to be sanctioned or adopted. But I now call upon any senator in his place to point out from the beginning to the end, from California to New Mexico, a solitary provision in this bill which is violative of the Constitution of the United States.

Sir, adjustment in the shape of compromise may be made without producing any such consequences as have been apprehended. There may be a mutual forbearance. You forbear upon your side to insist upon the application of the restriction denominated the Wilmot proviso. Is there any violation of principle there? The most that can be said, even assuming the power to pass the Wilmot proviso, which is denied, is that there is a forbearance to exercise, not a violation of, the power to pass the proviso. So, upon the other hand, if there was a power in the Constitution of the United States authorizing the establishment of slavery in any of the Territories—a power, however, which is controverted by a large portion of this Senate—if there was a power under the Constitution to establish slavery, the forbearance to exercise that power is no violation of the Constitution, any more than the Constitution is violated by a forbearance to exercise numerous powers that might be specified that are granted in the Constitution, and that remain dormant until they come to be exercised by the proper legislative authorities. It is said that the bill presents the state of coercion—that members are coerced in order to get what they want, to vote for that which they disapprove. Why, sir, what coercion is there? Is there any coercion in the numerous treaties made by the United States —the treaty in settling the Maine boundary; the treaty coming down from 54° 40′ to 49° in Oregon; all treaties which have been made upon commerce, upon boundaries, and other questions from time to time by the United States upon the principles of mutual and reciprocal concession on the part of those who made them? Is there any more coercion in this case than in the passage of a bill containing a variety of provisions, some of which you approve and others of which you disapprove? Can it be said, upon the part of our northern friends, because they have not got the Wilmot proviso incorporated in the territorial part of the bill, that they are coerced—wanting California, as they do, so much—to vote for the bill, if they do vote for it? Sir, they might have imitated the noble example of my friend (Mr. Cooper) from that State upon whose devotion to this Union I place one of my greatest reliances for its preservation. What was the course of my friend upon this subject of the Wilmot proviso? He voted for it; and he could go back to his constituents and say, as all of you could go back and say to your constituents, if you choose to do so, "We wanted the Wilmot proviso in the bill; we tried to get it in, but the majority of the Senate was against it." The question then came up whether we should lose California, which has got an interdiction in her Constitution, which, in point of value and duration, is worth a thousand Wilmot provisos; we were induced, as my honorable friend would say, to take the bill and the

whole of it together, although we were disappointed in our votes with respect to the Wilmot proviso—to take it, whatever omissions may have been made, on account of the superior amount of good it contains.

It is said, Mr. President, that this "omnibus," as it is called, contains too much. I thank, from the bottom of my heart, the enemy of the bill who gave it that denomination. The omnibus is the vehicle of the people, of the mass of the people. And this bill deserves the name for another reason: that, with the exception of the two bills which are to follow, it contains all that is necessary to give peace and quiet to the country. It is said sometimes, however, that this omnibus is too heavily freighted, and that it contains incongruous matter. I shall not repeat the argument which I have addressed to you heretofore, showing that, according even to the British parliamentary law, but more especially according to the congressional law, this bill is in conformity with practice in innumerable instances. But the ostensible objection that it contains too much matter is not the real one. Do you believe that the senator who sits before me (Mr. Baldwin), and other senators in this neighborhood, if you would attach to the territorial bills the Wilmot proviso, would have seen the incongruity or felt any intolerable burden? Would not the senator even from Massachusetts (Mr. Davis), have voted for the whole of this incongruous bill with pleasure, if it had only contained the Wilmot proviso? It is not that the bill has too much in it: it has too little, according to the wishes of its opponents; and I am very sorry that our omnibus can not contain Mr. Wilmot whose weight would break it down, I am afraid, if he were put there. (Laughter.) This incongruous measure, which has already too much matter in it, has not enough for the senator from Tennessee (Mr. Bell). He wants to put in it two or three more States from Texas, provisionally, upon the event of their becoming applicants for admission into the Union. No, sir; it is not the variety of the matter—it is not the incongruity, the incompatibility of the measures and the bill, but it is because the bill does not contain enough to satisfy those who want the "Wilmot," as it has been properly called, placed in the omnibus.

Why, Mr. President, incongruous as it may be supposed, this measure has not half the incongruity of the elements of opposition to the bill. While upon this part of my subject, allow me to answer an argument delivered with all possible self-complacency by the honorable senator near me (Mr. Hale) the other day. He said he had gone into a certain apartment of this capitol, and there he had found my friend from Michigan (Mr. Cass) and myself in close conversation; and the senator from Mississippi (Mr. Foote) with a senator now no longer in his place, but a senator called by a grateful country to a more responsible station, and who has left us only this morning (Mr. Webster). I might have inquired how the senator came there. May I ask to what keyhole he applied his ear or his eye —in what curtain he was ensconced—to hear and perceive these astonishing circumstances, which he narrated with so much apparent self-satisfac-

tion? (Laughter.) Sir, I have been in repeated consultation with my friend (Mr. Cass)—for so I will call him, and he has shown himself to be the friend of the peace of his country—during the progress of this measure, and also with other democratic friends upon this measure. Repeatedly have I been in consultation with them upon the subject of this bill and the amendments which have been proposed. I regret only that our consultations have not been more numerous and of longer duration. But how stands the matter with us, with the friends of this bill? On the subject of slavery, the treatment of California, the Territorries, the adjustment of the boundaries of Texas, the fugitive-slave bill, and the bill for abolishing the slave-trade, there is no difference of opinion between my democratic friends whom I have consulted and myself; but there has been perfect union during all our consultations. Allow me to say that there is not a a solitary instance in which a subject connected with party politics, upon which we might have heretofore differed in the progress of the administration of our government, has been adverted to. We spoke of that measure which absorbed all our thoughts, which engrossed all our hopes, which animated all our anxieties—the subject of pacifying, if possible, the distracted parts of the country—a subject upon which, between us, there was a perfect coincidence of opinion.

But how does the matter stand with the extremes who are united against this measure? Why, they are extremes upon this very measure, and upon this very subject of slavery! Upon the very subject under consideration there is among them no union of sentiment, no coincidence of opinion, and yet a most cordial and confidential co-operation. In our meetings upon this subject, in our consultations, democrats and whigs convened and consulted together. They threw aside, as not germane, and as unworthy of their consideration, all the agitating party politics of the day; and I venture to say that, in those meetings between my democratic friends and myself, there was no diversity or contrariety of opinion upon the only subject that brought us together. If I am not utterly mistaken, there are no such union and coincidence of opinion between the opponents of this bill, who, upon the very subject of slavery to which it relates, are as wide apart as the north and south poles. Some of the opponents of this bill have had quite as frequent consultation as its friends. Whether the senator near me, from New Hampshire [Mr. Hale], was present or not, I am not able to say. I do not recollect to have heard that he was one of them; but I—

Mr. Butler (interposing). I hope that the senator—

The President. Does the senator from Kentucky yield the floor?

Mr. Clay. No, sir, unless it is for an explanation.

Mr. Butler. I only wish to know of one meeting of the particular kind alluded to, caucus or any thing of that sort, where these incongruous elements have met together.

Mr. Clay (resuming). I was going to exonerate you from the associa-

tion, and I only wish I could separate you upon the final vote. [Laughter.] I am afraid we shall find you then together. Whose eyes have not witnessed the consultations between the extremes of this chamber from day to day? The eyes of every discerning senator must have noticed it. But whether in the consultation between these ultra gentlemen from the South there was any mixture of the abolition element which is near me or not, I was about to remark that I could not say. I have not heard, indeed, that the senator from New Hampshire [Mr. Hale] was present. But if he was absent, and those others about to vote upon the final question with some of our friends upon the other side, there is no doubt of the fact, from what I have heard, that the consultations of some of the opponents of the bill were quite as frequent as any which have taken place between the friends of the bill.

Mr. Dayton (interposing). I dislike to interrupt the senator; but I desire, as one of the opponents of this bill on this side of the chamber, to disclaim all knowledge, either direct or indirect, of any such meeting for consultation upon this subject.

Mr. Clay. Does the senator deny all consultation?

Mr. Dayton. I have no knowledge of any.

Mr. Clay. I alluded more particularly to some senators whose consultations, as I have heard, have been frequent, very frequent; but I do not assert it as a fact.

Mr. Mason. I would ask the senator, when he alludes to southern senators, of whom I am one, if he would be good enough to declare whether he ever heard, or whether he has any reason to believe, that senators from the southern States have met in consultation upon this bill with any senator from the free States?

Mr. Clay. No, sir; I have not heard so. But at the same time I would ask the senator from Virginia whether they have not had frequent consultations among themselves?

Mr. Mason. I will answer freely. There certainly have been frequent consultations between senators from the southern States upon questions involving the dignity, honor, and safety of the southern States, involved as they conceived in the provisions of this bill.

Mr. Clay. And so, undoubtedly, did our consultations relate to the dignity, honor, and safety of the Union, and the Constitution of our country. [Loud applause from the gallery.]

The President. Order! The sergeant-at-arms will clear the gallery if order is not preserved. The Chair will not permit the applause to be repeated; if it is, he will be under the necessity of ordering all persons to leave the gallery.

Mr. Clay. Mr. President, there is neither incongruity in the freight nor in the passengers on board our omnibus. We are all heartily concurrent upon the only topic which brought us together, and which constitutes the sole subject of our consultation. We have no Africans or abolition-

ists in our omnibus—no disunionists or free-soilers, no Jew or Gentile. Our passengers consist of democrats and whigs, who, seeing the crisis of their common country, and the dangers impending over it, have met together, forgetting and throwing far behind them their political differences on other subjects, to compare their opinions upon this great measure of reconciliation and harmony.

Mr. President, how stand the questions which have formed the subjects of our deliberation so long? One party wants the immediate admission of California, and wants the imposition of the proviso in the territorial governments. The other party wants the limits of California circumscribed, and the Missouri compromise line applied—some of them with the express recognition of the right to carry slaves south of it; others without such a recognition, trusting to an implied constitutional right; and these other parties are strenuously opposed to the proviso. Some, again, want the Texas boundary settled, and others want it to be left open. These are the conflicting opinions which we recognize in this body. How are they to be adjusted? Is there a senator or member of the House, is there a man in this wide country, who will say that Congress ought to adjourn without settling these questions? Not one. How are these conflicting opinions to be adjusted, then? Can it be otherwise done than by meeting in the spirit of amity and conciliation, and reconciling the great interests to be preserved and promoted by union and concord?

The honorable senator from Massachusetts [Mr. Davis] says there are no parties who can make a compromise. Will the senator excuse me for saying that this remark smells too much of the technicality of Blackstone? No parties! Are there not great conflicting interests, conflicting opinions, pervading the whole country? Who are the parties in that greatest of all compromises—the Constitution of the United States? There were no technical parties to that instrument; but in deliberating upon what was best for the country, and perceiving that there were great and conflicting interests pervading all its parts, they compromised and settled them by ample concession, and in the spirit of true patriotic amity. They adjusted these conflicting opinions; and the Constitution, under which we sit at this moment, is the work of their hands—a great, a memorable, magnificent compromise, which indicates to us the course of duty when differences arise which can only be settled by the spirit of mutual concession. Sir, do we not know, and have we not reason to apprehend, that without a combined measure you can do nothing? I have heard, Mr. President, that a different temper prevails at this time—that it is possible to carry these measures if they are presented in succession, just as they have been reported by the committee. I take the occasion to say, and I am sure I express the sentiment of every member of the committee, that we are not prompted by the pride of opinion, or wedded to any given system of arrangement or settlement of these great national questions. We preferred combining them in one measure because we thought it most practical and

most likely to lead to an auspicious result But if it can not be adopted in the conjoint form reported by the committee, and if the desired object can be better attained by action upon a series of successive measures, without the odious proviso, not a murmur of complaint, I am quite sure, will ever be heard from a member of the committee. It is not the means, it is the great specific end we have in view; and however that end is attained —whether by such an arrangement as this committee has proposed, or by separate acts of legislation—the committee and myself are utterly indifferent. But it is known to you that if all the measures comprised in the bill under consideration are not passed, there is danger that in the presentation of those measures in detail, some of them would fail, and the result would be, that while one party got all that it immediately wanted, the other would obtain nothing which it desired. You know there was great cause to apprehend—I hope there may be none now—that, in the separate presentation of the measures, the consequence would be the attachment of the Wilmot proviso in one or the other of the two Houses, and the utter failure to establish any territorial governments of Utah and New Mexico. It was thought then that, in the spirit of our revolutionary sires, in the spirit which has heretofore pervaded all our government, conciliating and reconciling as much as possible opposing and conflicting interests and opinions, we would present a measure which would bind all, and that would lead both parties, as far as practicable, to unite upon it for the sake of harmony and tranquillity. We thought then, as I think now, that senators from the northern States might go home to their constituents, after this measure shall have been passed, and say, "We have got California; she is secure; there is a prohibition of slavery in her Constitution that will last perhaps forever; whereas the Wilmot proviso would have a limited and an evanescent duration, existing while the territorial form of government remained, but ending whenever the State should come to form for herself a Constitution." This, our northern senators might say with great propriety to their constituents: "We have secured California for you; she is dedicated now forever to that free-soilism which you so much prize." "Well; but why, then," they might reply, "have you not put in a restriction in the territorial bill, so as to secure that, at least until they come to be ripe enough to form State governments for themselves?" Would it not be a satisfactory reply to them to say, that in your opinion, and in the opinion of a large portion of this Senate, the law of nature, and of nature's God, excluded slavery from these Territories, and, according to your opinion also, the lex loci of the land also exclude slavery? And might you not further add, with propriety, that you endeavored to reconcile the distracted and disunited portions of this great empire, and you thought that no imposition or restriction was necessary to any object which you desired to attain, and in a spirit of conciliation, therefore, you forbore to vote against the final measure, because it secured so much of what the North wanted? Could

you not say that you were not in danger of losing what you also wanted in respect to the residue of the country?

This subject has presented one of the most extraordinary political phenomena that I ever witnessed. Here is a united Senate almost in favor of all the measures in detail—in favor of the admission of California; in favor of territorial governments for Utah and New Mexico, with or without the proviso; in favor of the settlement of the boundary with Texas—in favor of all these measures in detail, but opposed to them when they come to be presented unitedly to be acted on; admitting the validity of every item of the account, but, when it comes to be footed up, denying or unwilling to acknowledge the justice of paying the aggregate! Sir, if the measures had been more incongruous than they are alledged to be, there has been ample time for a just conception of them, and just as perfect an understanding of them as if they had been presented in successive details.

I wish again to make only a very few observations about this same proviso. It has been argued with an ability which requires no addition, or attempt at addition, from me, by the senator from Massachusetts who has just vacated his seat, that the proviso is not, in itself, a principle, but a means to accomplish an end. And where, let me ask, exists the necessity for a proviso? You have been told that the existence of African slavery depends upon the character of the climate and of the soil. The nature of the soil of New Mexico forbids the expectation that slavery will ever be planted there. Why, we all know that slave labor is applicable only to the great staples which constitute the subjects of our foreign commerce—cotton, sugar, hemp, tobacco, and rice. Slave labor has been found, according to American experience, to be utterly valueless, or at least to a great extent valueless, in those States where these staple articles are not cultivated. Does any body pretend that the soil of New Mexico or Utah is adapted to the cultivation of these articles? Do we not all know that if it were adapted, and the climate and soil would allow of their being cultivated, the expense of transportation from New Mexico or Utah, either to the Pacific on the one hand, or to the Gulf of Mexico or the Atlantic on the other, would be, perhaps, ten times the value at home of any of these articles?

But the honorable senator from Massachusetts (Mr. Davis) has found out a new object of temptation in respect to slaves in New Mexico. He has employed an expression which filled all of us with profound regret, on account of the dignity, the character of the senator, and the high stations which he has occupied. He spoke of New Mexico being adapted to the breeding of slaves. He has had the good taste to omit that expression in his printed speech, and to substitute for it the "traffic" in slaves.

Mr. Davis (in his seat). I believe I did not use that expression.

Mr. Clay. The senator did employ it, for it was heard and noticed by more than myself.

Mr. Davis. One can not always remember the language he uses in the hurry of a debate. I can only say that I have no recollection of using the word "breeding;" and I think if the reporter's notes are preserved and referred to, the word will not there be found. I shall have the curiosity to look and see if it is so; but according to the best of my recollection, I spoke of the capacity of the country for the "traffic" in slaves.

Mr. Clay. That is the language of the gentleman's speech, as printed; but the word "breeding" was used by the gentleman, or I never heard a word of the speech. Several senators took a note of it, and we expressed how much we were shocked and surprised at it. It was one of the principal topics of the senator's speech to talk about the cotton power, the cotton interest, and the breeding of slaves. Now, if the senator had put it on the ground of a *lapsus linguæ* from the heat of debate, or the unguarded character of debate, I should not insist upon attributing it to him; but the expression was used by him, and I marked it; it was fixed on my memory, and very much did I regret that he made use of it. This talk, sir, about the cotton power, the lords of the loom, and the breeding of slaves, will do for the bar-rooms of cross-road taverns; but I never hoped or expected to hear upon the floor of the Senate such epithets applied to the great manufactures of the North and the cotton-growers of the South. I have struggled with the honorable senator side by side, and I think he might have been disposed to do some little justice to those States which stood by the North in the great measure of protection to American industry. They were Maryland, Delaware, North Carolina, Kentucky, and Tennessee, which have generally stood by the principle of protection to northern interests; and, among the more southern States, Georgia, I believe, from what I have seen of recent manifestations of opinion by her representatives, was almost ready to come up to the support and protection of our own domestic interests. And does not the senator know that it was not the South, the unaided South—for what could the South do alone in prostrating the principle of protection?—but it was the North and the South combined—it was Pennsylvania (unintentionally) and New York, and Indiana, and Illinois, and Maine, and New Hampshire, and other free States, that decided the memorable contest of '44, and, combined with portions of the South, repealed the act of '42 by the passage of the act of '46, and prostrated the principle of protection. And although, as I have stated on a former occasion, the South may be said in some sense to have had the general sway in the political affairs of this country for a long term of years, and, although the presidential office has been filled for the most part with her citizens, perhaps it would be as near the truth of history to say that the North itself has governed the country through the South. And is the honorable senator from Massachusetts sure that if the calamitous event of the dissolution of the Union were to take place, and the North exclusively had the power of passing upon the principle of protection, it could be now established? Unquestionably without the concurrence and support of the North, none

of these great measures which are charged to the account of southern domination—the "slave power," or the "cotton power," could have passed. Sir, if my honorable friend (for so I wish still to regard him) wishes ever to see a moderate tariff established in this country, which shall secure protection to some extent, he will not do it by throwing out taunts such as he has done toward the southern portion of the country in respect to the "cotton power" or "slave-breeding interest."

This charge upon the slaveholding States of breeding slaves for market is utterly false and groundless. No such purpose ever enters, I believe, into the mind of any slaveholder. He takes care of his slaves; he fosters them, and treats them often with the tenderness of his own children. They multiply on his hands; he can not find employment for them, and he is ultimately, but most reluctantly and painfully, compelled to part with some of them because of the increase of numbers and the want of occupation. But to say that it is the purpose, design, or object of the slaveholder to breed slaves, as he would domestic animals, for a foreign market, is untrue in fact, and unkind to be imputed, or even intimated, by any one. And it is not by such reproachful epithets as "lords of the loom," "lords of the plantation," "the slave power," and "the money power," that this country is to be harmonized, especially when we are deliberating upon those great measures which are essential to its onward progress, and to its present and future prosperity.

Mr. President, it is one of the peculiar circumstances attending my present position, as I remarked on a former occasion, that I am generally called upon to vindicate the measures proposed in this bill against those whom we have regarded as the friends, as well as those who are considered as open, avowed opponents of the measure. I anticipated the other day, somewhat, the argument which I beg leave barely to advert to now. I think among our southern friends two or three great errors are occasionally committed. They interpret the Constitution according to their judgment; they ingraft their exposition upon it; and, without listening to or giving due weight to the opposite interpretation, to the conflicting exposition which is as honestly believed by the opposite interpreters as they believe on their side, they proclaim their own exposition of the Constitution, and cry out, "All we want is the Constitution!" In the comparison and expression of opposite opinions, infallibility is not the lot of mortal man. It belongs only to Him who rules the destinies of the world; and for any section or any set of gentlemen to rise up and say the "Constitution means so and so, and he who says otherwise violates the Constitution," is, in itself, intolerant, and without that mutual forbearance and respect which are due to conflicting opinions, honestly entertained by all who are equally aiming to arrive at the truth. Now, I said the other day that the Wilmot proviso, as proposed to be enacted by the Congress and incorporated in territorial bills, was a question totally distinct from the insertion of the restriction in a Constitution formed by a newly organized State.

It is the opinion of the opponents of the bill, and the opinion, too, of some of its friends—although it is not my own opinion—that the Constitution confers no authority upon Congress to impose a restriction upon the subject of slavery in territorial governments. Very well; if Congress has no power to impose such a restriction, and nevertheless does exercise such a power, it is usurpation; it is the assumption of illegal authority; it is wrong in any view of the matter—a grievous and oppressive wrong. But when a State which is about to enter into the Union, and is deliberating concerning a Constitution which is best adapted to promote her interests and happiness, chooses to consider whether she shall admit or exclude slavery, and decides to exclude it, can such an exercise of authority on the part of the State—a conceded power—be confounded with the unconstitutional exercise of it by Congress?

Now, do not our southern friends who oppose this bill upon the ground that there is an interdiction to the introduction of slavery in the California Constitution, and that this is equivalent to an interdiction exercised unlawfully by Congress, according to their views—do they not mingle truth and falsehood, black and white, things totally dissimilar? It is of no consequence what effects the one or the other measure may produce. That is a different question. The question is one of power; and I say the exercise of such a power, which they regard as a usurpation by Congress, is totally distinct from the lawful exercise of a similar power by the State forming for herself and her own government a Constitution. Three years ago, two years ago, one year ago—one short year ago—the great complaint, on the part of the slaveholding States of this Union, was the apprehended infliction upon their interests of a restriction called the Wilmot proviso. Well, we have met together; there has been a change of public opinion, a modification of public opinion, at the North. And allow me to say that, with regard to that most important portion of our Union—its north-west section—that no man is more entitled to honor and gratitude for this salutary change than the honorable member in my eye (Mr. Cass), who represents Michigan. He came here with his hands tied and bound by a restriction which gave him no other alternative than a violation of his conscientious convictions of duty, or a resignation of his seat into the hands of those who sent him here. Discussions have taken place in this House, in the country, in the press—they ran through the North, and Michigan nobly released and untied the hands of her senators, and left them free to pursue their own best judgment to promote the interests of their country. And allow me to say this is the feeling of all the north-west. There is, indeed, one honorable senator here (Mr. Dodge, of Wisconsin), whose grave and Roman-like deportment in this body has filled me with admiration throughout our entire service here together—a senator crowned with laurels by his military deeds in the field of battle. And if he will allow me to address him, approaching, as we both are, to the close of life, I would say to him that there is nothing wanting to a consummation of his glory, and his

assignment to a more important and conspicuous position in the country's history—there is nothing wanting but to cap the climax of renown by contributing to carry triumphantly through this important measure of conciliation.

Let me for one moment—assuming the passage of the various measures which compose the system reported by the Committee of Thirteen—let me see what will be the condition of the two sections of the Union—what has been gained and lost by each. The North gains the admission of California as a free State, and the high probability of New Mexico and Utah remaining or becoming free territory; avoids any introduction of slavery by the authority of Congress; sees New Mexico detached from Texas, with a high degree of probability—from the nature of the climate and the character of the soil, and from other circumstances—that New Mexico will ultimately become a free State; and secures the abolition of the slave-trade in the District of Columbia. Are not these subjects of sufficent magnitude to satisfy any moderate, rational, northern wishes? And what will the South gain? The South avoids the assertion by Congress of the dangerous principle, as they regard it, contained in the Wilmot proviso; places beyond controversy nine hundred miles of the territory of Texas on the Rio Grande, now in dispute; gains an efficient fugitive slave bill, and silences the agitation about the abolition of slavery in this District. Sir, it may happen—and I am not going to disguise my convictions as to the probabilities of the fact—that the South will get no territory in Utah, New Mexico, or California, adapted to slave labor, in which slaves will be introduced. But this is not the fault of Congress. It is congressional power, congressional usurpation, congressional assumption of an unlawful authority over the institution of slavery, against which the South raises her voice in protestation. If she can not get slave territory in California, New Mexico, and Utah, whose fault is it? She can not blame Congress, but must upbraid nature's law, and nature's God!

In human affairs yet to be attained, there are four conditions under which they present themselves—the certain, the probable, the possible, and the impossible or the inevitable. The certain requires no effort; the probable only a little effort; the possible might be accomplished by an indomitable will, and an energetic perseverance in the pursuit of it. But that which is impossible and inevitable, philosophy, reason, religion, and all the guides which are given to us by the blessing of God, inculcate upon us the duty of submission to His will, and resignation to His paramount authority. Now, it is inevitable in my opinion, that southern slavery is excluded from the possession of any portion of California, Utah, probably of New Mexico; and, if so, why contend for it? Now, what is it that distracts the public mind? A mere abstraction. We look back with surprise and astonishment at the prosecutions and punishments for witchcraft that some two hundred years since occurred in the States of Massachusetts and Connecticut. Two hundred years hence, if not much

sooner, our posterity will read the history of the present times, agitating and threatening the country as they do, with as much astonishment as we pore over the leaves of the historian in which he recounts the witchcraft and the persecution and punishment of witches in former times. And why contend for carrying slaves to Utah and New Mexico, where there is nothing upon which their labor can be employed—where nobody will take them? Let me remind gentlemen now, while upon this part of the subject—I mean those who are desirous for the greatest extension of the theater of slavery—of a danger, and a great and imminent danger, which they are incurring. I venture a prediction—not likely to be fulfilled or decided, perhaps, in the course of the short remnant of my life—that if Texas includes all the territory now claimed by her—nay, I go further, although the contingency I am about to state is less likely to happen by the curtailment of the boundary—I venture to say that, in some thirty, forty, or fifty years, there will be no slave State in the limits of Texas at all. I venture to predict that the northern population—the population upon the upper part of the Rio Grande—will in process of time greatly outnumber the population holding slaves upon the Gulf and the lower waters of Texas; and a majority will be found to be adverse to the continuance of slavery, and it will either be abolished, or its limits effectually circumscribed. This is no new opinion with me. I think that I gave the same in a letter which I wrote some six years ago from Raleigh, in the State of North Carolina. I said, that if two, three, or four States were formed out of Texas, they would ultimately become free States. And I say that the probability is very great of all Texas becoming free, if it all remains as she has claimed, including from the mouth of the Rio Grande to its source, or even limited by El Paso. But, whether it be great or small, it appears to me that it is the interest and duty, and it should be the inclination of the South, to look at facts and nature as they exist, and to reconcile themselves to that which is inevitable and impossible—to reconcile themselves to the fact that it is impossible, however desirable it may be in the opinion of any of them, to carry slaves to the countries which I have described.

But, Mr. President, in the supposition which I have made as to what is gained by either section of the Union in consequence of this arrangement of the common difficulties between them, is there any thing of which the South can justly complain? The fault of Congress can not be cited as depriving them of the opportunity of carrying their slaves there. The provisions of the bill are that the people are left free to do as they choose. There is, indeed, one provision, which did not meet with my approbation, and with which I would have been better satisfied had it been left out; and that is, the provision which does not permit the government of the Territories to establish or prohibit slavery. But it was introduced at the instance of some southern gentlemen. And another amendment was also introduced at their instance, which expressly provides that if any States from this Territory shall come here, with a Constitution admitting slavery,

such State is to be admitted; that the fact of the provision for or against slavery is to constitute no objection to her admission into the Union. Now, what complaint can the South make if the whole scheme is carried out? The South gains a virtual abandonment of the Wilmot proviso, avoids the assumption of any power dangerous to the institution of slavery within the States, or the application of such power to slavery without the States, and secures nine hundred miles of now disputed territory. It is quite unreasonable for any gentlemen from the South or elsewhere to get up and say that the title of Texas to this country is indisputable; that it is as clear as the title of any other State to any territory in the Union. There is an opposite opinion, and I share myself in the doubt of the validity of the claim of Texas from the mouth of the Rio Grande to the source of that stream. There are opposite opinions, honestly and sincerely entertained by both parties. What is to be done in such a case? You refuse to appeal to the Supreme Court of the United States; you disown any jurisdiction which can settle the question. Texas at this moment threatens, we understand, by force of arms to enforce her claim upon New Mexico. How is the question to be settled? Can it be done otherwise, satisfactorily done, than by compromise, and by the compromise proposed in this bill? I repeat, the South gets nine hundred miles of the best part of the country bordering upon the Rio Grande put out of the controversy as to the present right to transport slaves there. She gains the abandonment of the Wilmot proviso, and she gets a fugitive slave bill, which I trust will be rendered efficient; and she also gets, as I trust I shall be able to show in the progress of my argument, the abandonment of the agitation of the abolition in the District of Columbia. What more can the South ask? Congress does nothing to injure her, denies her no rights, has offered as much as it can, and says that if any new State shall come here, it shall be admitted with or without slavery, as they choose. What more, let me ask, can the South demand?

Sir, I repeat that, if the South does not gain the sanction of her right to carry slaves into the new acquisitions, it is because, according to her own doctrine, Congress has no constitutional authority to confer such a privilege, and because California, exercising her undoubted power, has excluded slavery from her limits, and because in the limits of Utah and New Mexico the laws of nature and of nature's God exclude slavery. Now, let me, at this point of the case, stop a moment to compare the system of measures recommended by the committee with what has been contended for by some of the southern senators during the progress of this bill, viz., the line of thirty degrees thirty minutes to be run to the Pacific—to cut that much off, of course, from the State of California. Let us consider that question under two aspects; first, without a provision that slaves may be carried south of that line; and secondly, with a provision that they may be carried south of that line. If a line is run without a declaration as to its effect upon the one side or the other of the line, you might as well

run a line upon the sands, upon the ocean, or in the air; it would be obliterated by the first blast of wind or the first billow. I am aware that there are gentlemen who maintain that, in virtue of the Constitution, the right to carry slaves south of that line already exists, and that, of course, those who maintain that opinion want no other security for the transportation of their slaves south of that line than the Constitution. If I had not heard that opinion avowed, I should have regarded it as one of the most extraordinary assumptions, and the most indefensible positions that was ever taken by man. The Constitution neither created, nor does it continue, slavery. Slavery existed independent of the Constitution, and antecedent to the Constitution; and it was dependent in the States, not upon the will of Congress, but upon the law of the respective States. The Constitution is silent and passive upon the subject of the institution of slavery, or rather it deals with a fact as a fact that exists, without having created, continued, or being responsible for it, in the slightest degree, within the States. There are but three provisions in the Constitution which relate to the subject of slavery. There is that which subjects slave property to taxation; that which makes it a component part in the estimation of the population in fixing the ratio of representation; and that which provides for the recovery of fugitive slaves. That is the whole extent of the constitutional provisions upon the subject of slavery. It no more instituted slavery, or is responsible for its continuance or its protection for a moment, while it remains within the bosom of the States, than it is responsible for the protection of any other personal property, depending for its protection upon the State and not upon congressional law. Why, it is said that upon the high seas, a vessel, of whose cargo slaves compose a part, would be under the protection of the Constitution and the government of the United States. So it would be upon the ocean; and why? Because there is no separate jurisdiction existing there in any nation; but there is a common jurisdiction—common to all nations—and the flag which floats at the mast-head of the ship carries with it the laws of the nation to which the vessel belongs. But the moment the vessel gets out of that jurisdiction, the moment it gets into a separate territorial jurisdiction, the flag, and the ship, and the cargo become subject to that territorial jurisdiction, and are no longer under the protection of the Constitution of the United States. Why, sir, that is not only true of the free States of this Union, but is true of the slave States. Thus, if a vessel leaves the port of Charleston with a cargo of slaves, and enters into the port of Boston or New York, the moment she casts anchor within the harbor—the moment she comes within the territorial jurisdiction of the laws of Massachusetts or New York, those laws operate upon the slaves, and determine their actual condition. I speak of course of the case in which they are voluntarily carried there. If they are carried there without the consent of the owner, they may of course be pursued under the provision of the Constitution which relates to fugitives. But if they are voluntarily carried, the instant they

quit the wide ocean, and come within the territorial jurisdiction, they are subject to the laws of that territorial jurisdiction. If you were to carry a cargo of slaves into the port of Liverpool or Havre, does any man pretend that the flag of the United States would protect them, after they enter into the territorial jurisdiction of England or France? No such thing. Nor is it like the case which has often been cited in argument, of the slaves which were cast upon the Bahama islands, which occurred some years ago. That was an involuntary loss of property, consequent upon the act of God. I do think Great Britain was bound in comity, if not in strict justice, in that case, to surrender those slaves, or to make ample indemnity for them, and not to take advantage of an involuntary and inevitable misfortune. But if slaves are voluntarily carried into such a jurisdiction, their chains instantly drop off, and they become free, emancipated, liberated from their bondage.

But I have said that this is not the only general law, and the law applicable to the free States of this Union, but it is the law of the slave States themselves. The law in Louisiana is now repealed; but some years ago there was a law in that State which prevented the exportation of slaves from other States into the limits of that State; and if then you had gone with a cargo of slaves into the port of New Orleans, they would have become legally free, or the owners would have been subjected to a heavy penalty, according to the enactment of that State. And there is at this time, if I am not mistaken, a law of Mississippi, which is not repealed (one of the members from Mississippi will inform me if I am wrong), which forbids the introduction of slaves as merchandise; and if you carry from Kentucky or Tennessee a steamboat load of slaves, you lose your property. I believe that in the case of Mississippi the slave does not become free, but that the party who imports him is subjected to a heavy pecuniary penalty. Such is the state of the law, as I believe, at this time, in the State of Virginia. It is, therefore, not only true of other foreign nations, but it is true of the States composing this Union, that the moment a slave enters the territorial jurisdiction of the State or foreign country, the laws of the place determine his condition, and not the laws of the flag of the ship in which he is transported there. On the ocean the flag determines the jurisdiction, for the reasons I have assigned; but the moment they come within the separate jurisdiction of any State or country, that moment they become amenable to, and are liable to be dealt with according to, the laws of that country. If the Constitution possess the paramount authority attributed to it, the laws of even the free States of the Union would yield to that paramount authority. If, therefore, it be true that, according to the laws now in force in California, New Mexico, and Utah, slavery can not be introduced—if such is the lex loci, the Constitution of the United States is as passive and neutral upon the subject as the Constitution or government of any other country upon earth. It protects wherever upon the high seas the slave is out of the separate jurisdiction of any State, foreign or domestic.

It affords no protection when it comes within the scope and jurisdiction of laws which forbid the existence of slavery. I do not mean to go into a long argument upon this subject. I did intend at one time, to take it up and discuss it very fully. I have thought it best, however, under all the circumstances of the case, merely to express these brief opinions, which I entertain in relation to it. In my opinion, therefore, the supposition that the Constitution of the United States carries slavery into California, supposing her not to be a State, is an assumption totally unwarranted by the Constitution. Why, if the Constitution gave the privilege, it would be incompetent for California to adopt the provision which she has in her Constitution. The Constitution of the United States being supreme, no State could pass an enactment in contravention of the Constitution. My rules of interpreting the Constitution of the United States are the good old rules of '98 and '99. I have never in my life deviated from those rules. And what are they? The Constitution is an aggregate of ceded powers. No power is granted except when it is expressly delegated, or when it is necessary and proper to carry into effect a delegated power. And if in any instance the power to carry slaves into the Territories is guarantied to you by the Constitution, or is an incident necessary to the carrying out of any other power than is delegated in the Constitution, I have been unable to perceive it. Amid all the vicissitudes of public life, and amid all the changes and turns of party, I never have in my life deviated from these great, fundamental, and I think indisputably true principles of interpreting the Constitution of the United States. Take these principles to be true, and where is the power—can any body point it out to me?—which gives you a right to carry your slaves to California? Where is the delegated power, or the power to which it attaches as a necessary implication? It is nowhere to be found. You must resort to some such general principle as the Federalists did in the early history of this country, when they contended for the doctrine of the "general welfare." But you can not put your finger on the part of the Constitution which conveys the right or the power to carry slaves from one of the States of the Union to any Territory of the United States.

Mr. President, you will remark that I am expressing an opinion upon the power, the constitutional right. I do not go into the question of how the powers of government are to be exercised or applied in the course of administration. That is a distinct question. I am arguing the question of constitutional power. Nor, sir, can I admit for a single moment that there is any separate or several rights upon the part of the States, or individual members of a State, or any portion of the people of the United States to carry slaves into the Territories, under the idea that these Territories are held in common between the several States. It is a joint property, held by a common trustee for the general good, and to be administered by the general government, according to its deliberate judgment of what will best promote the common happiness and prosperity, and do justice to all.

If, therefore, I am right in these opinions which I have expressed, to run a line at 35 degrees or 36 degrees 30 min. through California, without declaring what the effect of that line shall be, either south or north of it, would, I repeat, be running a line in the sand—a line without motive, without purpose, without accomplishing any end whatever. Therefore I must say that those senators upon the other side, who have contended for an express recognition of the right to carry slaves south of that line, have contended for something much more perfect and efficient than to run a naked line without any such declaration. But, then, there are two considerations which oppose insuperable objections to any such recognition or declaration to carry slaves south of that line. The first is, that you can not do it without an assumption of power upon the part of Congress to act upon the institution of slavery; and if they have the power in one way, they have the power to act upon it in the other way; and the power to act upon it either way is what you have denied, and opposed, and endeavored to prevent being accomplished for the last two or three years. It would be an assumption, a usurpation, according to the southern doctrine, for Congress to exercise any power either to interdict or establish slavery upon either side of a given line. The other objection to accomplishing this end is, that it is impracticable and unattainable. A majority neither of this House nor of the other House—not one third probably of this House, and perhaps still a smaller portion of the other House—could be got to affirm any right of transporting slaves south of 36 deg. 30 min. It is, then, wrong in principle, and impracticable and inexpedient. Why, then, contend, let me ask, for a line which, if attainable at all, is attainable without value, without necessity, without advantage to the South? Or why attempt that which is utterly unattainable—a line which shall secure any express provision for the power or right on the part of the slaveholder to carry his slaves south of it?

Having endeavored to show that the measure which we have under consideration is better for the South than the Missouri line, let me compare the measure, in a few brief words, with the other one which has been under consideration by us heretofore. The other measure proposes to admit California forthwith, and New Mexico as soon as she presents a Constitution, and Utah to follow on soon after New Mexico is admitted—all to be permitted to decide the question of slavery for themselves, without any intervention of the power or authority of Congress.

Well, what advantage is that to the South? You know—for I believe it has been already done by the Constitution of New Mexico, as well as by that of California—that slavery will be prohibited. You know that if New Mexico comes in, she comes in like California, with an interdiction of slavery; and you know that she will never come in without such an interdiction. What do you get, then? What advantage to the South? Sir, it is a one-sided measure—the measure which I am considering. It is all North, and looks not at all toward southern interests. It is liable to objec-

tions which I have already stated upon a former occasion, and which it is not necessary that I should repeat now. But if you admit New Mexico with the boundary between her and Texas unadjusted, what may the consequence be? You admit a Territory and people who, if Texas shall establish her claim to the whole extent of the eastern border of the Rio Grande, may be cut off by the subsequent action of Texas, or of the Supreme Court of the United States. You admit the State of New Mexico, afterward to be cut in two, and a State let into the Union without territory, and without people; for I will state what is well known I dare say to other senators, that all the people who can constitute any ground or color of claim for the admission of New Mexico into the Union as a State, are upon the east side of the Rio Grande, and all the territory worth having is upon the same side of that river. Then it happens, if the plan presented for the admission of these States be adopted and carried out, you take California absolutely with all her present limits, and New Mexico in such a way that it may happen that you will have a State in the Union without territory and without people. Texas by the assertion and successful prosecution of her claim, will have taken all the territory and all the people that would have constituted any ground for the admission of the State of New Mexico.

Mr. President, I approach now to the question of what the consequence must be of the defeat of the measure now before the Senate, and what the consequence will probably be in case of the successful support of the measure by Congress. If the bill is defeated, and no equivalent measure be passed, as in all human probability will be the case—if this measure is not passed, and we go home, in what condition do we leave this free and glorious people? In regard to Texas there is danger, as I have remarked, of two civil wars. There is danger, in the first place, of the resistance of the people of New Mexico to the authority of Texas, supposing non-interference on the part of the general government. But if New Mexico goes on to organize herself into a State government, and insists upon the exercise of the powers which appertain to State sovereignty, we must shut our eyes and be blind to passing events, if we do not see that there is danger of a servile civil war, originating between Texas—and if you please—the troops of the United States that may come in in aid of New Mexico. Assuming that Texas will move with military array upon New Mexico, there will probably be resistance upon the part of the general government to the entry of the troops of Texas into the limits of New Mexico, although there may be uncertainty as to the course upon this subject which will be taken by the administration just coming into power, upon which we have the advantage of no light whatever. But we know that the administration which has just passed out of power would, in that contingency, have repelled the attack made by Texas. If the present administration should feel it incumbent upon itself to repel such an invasion, the consequences which I am about to portray are at least possible, if not likely to occur.

I am not going to magnify the power of Texas, I am not going to magnify the power of any single State. It is with infinite regret, with profound sorrow and surprise, that I hear individuals in States talking as they occasionally do, with so little respect to the power and justice of the general government. Why, it was only the other day that a member, returned from the Nashville convention, addressed, we are told, the people of Charleston, South Carolina, proposing to hoist the standard of disunion. I do not know which most to admire, the gravity and possible consequences which may ensue from carrying out the views of the delegate to the Nashville convention, or the ridiculous scenes which occurred during the course of the public meeting. He was applauded most enthusiastically—as I learn from the public papers, and as I learn also from a creditable gentleman who was present at the meeting—when he declared that if the South did not join herself to this standard of rebellion, South Carolina would herself raise it, and fight this Union singly and alone! Yes, said a gentleman in the audience, in a fit of most patriotic enthusiasm, and if South Carolina does not do it, I with my strong arm and my long purse, will fight the Union myself.

Mr. President, I have no patience for hearing this bravado, come from what source it may. At the same time, I am not disposed to undervalue its importance as one of many cotemporaneous events.

There are certain great interests in this country which are contagious, sympathetic. If the contest were alone with Texas and the United States, I think there would be some little probability that the United States might come off victorious in such a contest with Texas. It is possible that the twenty-nine other States in the Union might repel an invasion of Texas upon New Mexico, if every other country stood aloof, and left the two parties, the United States and Texas, to fight out the contest. I think there is some probability that, with the gallant individual now in my eye (General Scott), in command of our armies, who has already so signalized the glory of his country and himself, we might come off not second best in a contest with Texas alone. But, sir, Texas will not be alone: if a war breaks out between her and the troops of the United States on the Upper Rio Grande, there are ardent enthusiastic spirits of Arkansas, Mississippi, Louisiana, and Alabama, that will flock to the standard of Texas, contending, as they believe they will be contending, for slave territory. And they will be drawn on, State by State, in all human probability, from the banks of the Rio Grande to the banks of that river which flows by the tomb of Washington. I do not say this will happen, but I say there is danger that it may happen. If there should be a war, even of all the southern States with the residue of the Union, I am not going to say that in such a contest, such a fratricidal contest, the Union itself, the residue of the Union, might not prove an overmatch for southern resistance. I will not assert what party would prevail in such a contest; for you know, sir, what all history teaches, that the end of war is never seen in the beginning of war,

and that few wars which mankind have waged among themselves, have ever terminated in the accomplishment of the objects for which they were commenced. There are two descriptions of ties which bind this Union and this glorious people together. One is the political bond and tie which connects them, and the other is the fraternal commercial tie which binds them together. I want to see them both preserved. I wish never to see the day when the ties of commerce and fraternity shall be destroyed, and the iron bands afforded by political connections shall alone exist and keep us together. And when you take into view the firm conviction which Texas has of her undoubted right; when we know at this moment that her Legislature is about to convene, and before the autumn arrives, troops may be on their march from Texas to take possession of the disputed Territory of New Mexico, which she believes to belong to herself—is there not danger which should make us pause and reflect, before we leave this capitol without providing against such a perilous emergency? Let blood be once spilled in the conflict between the troops of Texas and those of the United States, and, my word for it, thousands of gallant men will fly from the States which I have enumerated, if not from all the slaveholding States, to sustain and succor the power of Texas, and to preserve her in possession of that in which they, as well as she, feel so deep an interest. Even from Missouri—because her valiant population might most quickly pour down upon Santa Fé aid and assistance to Texas—even from Missouri, herself a slave State, it is not at all unlikely that thousands might flock to the standard of the weaker party, and assist Texas in her struggles. Is that a state of things which you, senators, can contemplate without apprehension? Or can you content yourselves with going home, and leaving it to be possibly realized before the termination of the current year? Are you not bound, as men, as patriots, as enlightened statesmen, to provide for the contingency? And how can you provide for it better than by this bill, which separates a reluctant people about to be united to Texas, a people who, themselves, perhaps, will raise the standard of resistance against the power of Texas—which separates them from Texas, and guards against the possibility of a sympathetic and contagious war, springing up between the slave States and the power of the general government, which I regard as almost inevitable, if Congress adjourns with the admission of California alone, stopping there, and doing nothing else. For, sir, the admission of California alone, under all the circumstances of the time, with the proviso still suspended over the heads of the South, with the abolition of slavery still threatened in the District of Columbia—the act of the admission of California, without provision for the settlement of the Texas boundary question, without the other portions of this bill, will aggravate, and embitter, and enrage the South, and make them rush on furiously and blindly, animated, as they believe, by a patriotic zeal to defend themselves against northern aggression. I call upon you, then, and I call upon the Senate, in the name of the country, never to separate from this capitol, without set-

tling all these questions, leaving nothing to disturb the general peace and repose of the country.

Mr. President, I have hitherto argued upon the contingency of nothing being done but the simple admission of California. Now, let me argue upon the contingency of the passage of this bill. What will be its leading effects? What its reconciling and salutary consequences? The honorable senator who usually sits before me, but who now sits upon my left [Mr. Hale], has told us more than once that if you pass this bill you do not hush agitation; you even increase it; that it will become more violent than ever. With regard to the senator, while I detest his abolition principles, I admire his manly, pleasant, convivial, and personal qualities; his good humor, his power of ready debate, the promptness with which he can carry on a guerilla fight in the Senate.

[Mr. Clay here declined a suggestion from Mr. Clemens, to yield to a motion to adjourn.]

I will not say that the senator from New Hampshire does not believe what he says. That, respect for the decorum of debate, and respect for him, will prevent me from saying. But, Mr. President, do you believe that the abolitionists conceive that more agitation will spring out of this measure than exists now? They live by agitation. It is their meat, their bread, the air which they breathe; and if they saw in its incipient state, a measure giving them more of that food and meat, and bread, and air, do you believe that they would oppose themselves to its adoption? Do you not believe that they would hail [Hale] it as a blessing? [Great laughter.]

Why, Mr. President, how stands the fact? There is not an abolitionist in the United States that I know of—there may be some—there is not an abolition press, if you begin with the abolition press located at Washington, and embrace all others, that is not opposed to this bill—not one of them. There is not an abolitionist in this Senate chamber or out of it, anywhere, that is not opposed to the adoption of this compromise plan. And why are they opposed to it? They see their doom as certain as there is a God in heaven who sends His providential dispensations to calm the threatening storm and to tranquillize agitated man. As certain as that God exists in heaven, your business [turning toward Mr. Hale], your vocation is gone. I argue much more from acts, from instinctive feelings, from the promptings of the heart, from a conscious apprehension of impending ruin to the cause which they espouse, than I do from the declamatory and eloquent language which they employ in resistance to this measure. What! increased agitation, and the agitators against the plan. It is an absurdity.

Let us now take up the measure in detail, and see how there could be greater agitation after the adoption of this general system of compromise than without its adoption. Let us begin and go over the whole five meas-

ures, if you please. There is California, she is admitted into the Union: will they agitate about that? Well, there are the territorial governments established: will they agitate about that? There is the settlement of the Texas boundary question: upon what can they agitate about the settlement of the boundary of Texas? They have every probability—I own it frankly to my southern friends, not resulting from the settlement of the boundary, but from the nature and character of the country—of having that dedicated also to free soil: will they agitate about that? About a constitutional fugitive bill? Then, will they agitate about the slave-trade in the District of Columbia? That is accomplished. Then what can they agitate about, supposing the whole system of measures to be carried out? They might agitate a little about not getting the proviso fastened upon the bill; and might agitate a little about not getting the abolition of slavery itself in the District of Columbia. The senator behind me [Mr. Seward] has estimated the number of slaves at one thousand. I think he is mistaken, and that it is a little more than that. What, in the name of heaven will they agitate about if these five measures are carried? Whom will they agitate? Who will be their auditory in the agitation? Here is a scheme of national reconciliation, a scheme or system which brings into fraternal harmony those whose hands were about to be raised against each other as enemies, a system to which the whole country becomes reconciled. What will they agitate about? To whom will they agitate? Where will they get followers and disciples? There is a portion of them—I speak not of the free-soilers; I speak not of those who from principle are honestly opposed to the extension of slavery, but of that fanatic, desperate band who call themselves, I don't know what—liberty men, or something of the kind—but there are those who have declared that this Union ought not to exist—those who would strike down the pillars upon which stands the most glorious edifice that was ever erected by the arm of man—self-government—and that would crush amid the ruins of the fall all this people, and all the hopes and expectations of ourselves and mankind. Men who would go into the temples of the holy God and drag from their sacred posts the ministers who are preaching His gospel for the comfort of mankind and their salvation hereafter, and burn the temples themselves—they might agitate. Men who, if their power was equal to their malignity, would seize the sun of this great system of ours, drag it from the position in which it keeps in order the whole planetary bodies of the universe, and replunge the world in chaos and confusion to carry out their single idea—they, perhaps, might agitate. But the great body of the people of the United States will acquiesce in this adjustment, will be reconciled to this settlement by their common representatives, after nearly nine months of anxious and arduous struggle. The great body of the people of the United States will be satisfied and acquiesce in this great settlement of our national trials and difficulties, at this the most momentous crisis that has ever existed in our history. No, sir; they may threaten agitation; they may talk of

it, here and elsewhere, but their occupation is gone. They will be stigmatized—justly stigmatized—as unworthy disturbers of the peace, if they attempt longer to prolong the dissensions and distractions of this country, after we have settled, and so well settled, so many questions which have divided us.

But, Mr. President, I am not only fortified in my convictions that this will be the salutary and healing effect of this great plan of compromise and settlement of our difficulties, but I am supported by the nature of man and the truth of history. What is that nature? Why, sir, after perturbing storms a calm is sure to follow. The nation wants repose. It pants for repose, and entreats you to give it peace and tranquillity. Do you believe, that when the nation's senators and the nation's representatives, after such a continued struggle as we have had, shall settle these questions, it is possible for the most malignant of all men longer to disturb the peace, and quiet, and harmony of this otherwise most prosperous country? But, I said, not only according to the nature of man, but according to the universal desire which prevails throughout the wide-spread land, would the acceptance of this measure, in my opinion, lead to a joy and exultation almost unexampled in our history. I refer to historical instances occurring in our government to verify me in the conviction I entertain of the healing and tranquillizing consequences which would result from the adoption of this measure. What was said when the compromise was passed? Then, as now, it was denounced. Then, as now, when it was approaching its passage, when being perfected, it was said, "It will not quell the storm, nor give peace to the country." How was it received when it passed? The bells rang, the cannons were fired, and every demonstration of joy throughout the whole land was made upon the settlement by the Missouri compromise. Nor is it true, as has been unkindly suggested, I think by the senator who sits at my left [Mr. Hale], that northern men were obliged to remain at home and incur the displeasure of their constituents. There was Henry Baldwin of Pittsburg, Henry Storrs of New York, and others, if I had time to enumerate them, who voted for a settlement of the Missouri question, and who retained the confidence and affection of their respective constituents.

I suppose the senator was understood, as I understood him, to throw out something by way of menace to northern senators, to make them swerve from the patriotic duty which lies before them of healing the agitation of the country. They did not lose the confidence of their country. They may have in particular instances, but I speak of those of which I had a distinct recollection. Yes, sir, the Missouri compromise was received with exultation and joy. Not the reception of the treaty of peace negotiated at Ghent, nor any other event which has occurred during my progress in public life, ever gave such unbounded and universal satisfaction as the settlement of the Missouri compromise. We may argue from like causes like effects. Then, indeed, there was great excitement. Then, indeed, all

the Legislatures of the North called out for the exclusion of Missouri, and all the Legislatures of the South called out for her admission as a State. Then, as now, the country was agitated like the ocean in the midst of a turbulent storm. But now, more than then, has this agitation been increased. Now, more than then, are the dangers which exist, if the controversy remains unsettled, more aggravated and more to be dreaded. The idea of disunion then was scarcely a low whisper. Now, it has become a familiar language in certain portions of the country. The public mind and the public heart are becoming familiarized with that most dangerous and fatal of all events, the disunion of the States. People begin to contend that this is not so bad a thing as they supposed. Like the progress in all human affairs, as we approach danger it disappears, it diminishes in our conception, and we no longer regard it with that awful apprehension of consequences that we did before we came into contact with it. Everywhere now there is a state of things, a degree of alarm and apprehension, and determination to fight, as they regard it, against the aggressions of the North. That did not so demonstrate itself at the period of the Missouri compromise. It was followed, in consequence of the adoption of the measure which settled the difficulty of Missouri, by peace, harmony, and tranquillity. So now, I infer from the greater amount of agitation, from the greater amount of danger, that, if you adopt the measures under consideration, they, too, will be followed by the same amount of contentment, satisfaction, peace, and tranquillity which ensued after the Missouri compromise.

Again, another instance of a compromise which was attended with happiest effects—I mean the compromise of 1833 of the tariff. I could name half a dozen senators who said then, as the senator from New Hampshire says now, that there would be agitation still upon the subject of the tariff. It was said: "You have adopted the measure which will ultimately prostrate the principle of protection. But they will come here at the next session, and at every session, until they get that compromise of the tariff of 1833 removed." Far different, however, was its reception among the great mass of the people of the United States, and among the manufacturers themselves. I made a tour of New England in that fall. The compromise passed in March, I think, and that autumn I made a tour of New England; and never in my life have I met with more demonstrations of cordial affection and confidence than I experienced at the hand of New England, and above all at the hand of the manufacturers. Sir, with regard to that compromise, I take the opportunity of saying that I consulted with the manufacturers in preparing that bill—not with the political manufacturers, but with Dupont and other friends of the North, Mr. Simmons, of Rhode Island, and some others not now necessary to be named. I said to them, "How will this measure operate for your interests?" "Admirably," was the reply, "for seven years, until you approach the fall of the measure of duties down to twenty per cent." I told them what I believed, that before

that period arrived Congress would take up the subject; and I urged the Van Buren administration to take up the subject, and remodify the tariff—not to go back to the former high duties, but to interpose some degree of protection in behalf of the interests of the country, beyond the twenty per cent. They did not do it. They suffered the thing to run out, and when they came down to 1842, the twenty per cent. went into full operation, and the year before, I believe, it operated very disadvantageously to the manufacturers. The tariff of 1842 would have restored that interest to the North. The North, and not the South chose, in the contest of 1844, to bestow their suffrages in a way which led to the passage of the tariff of 1846. Sir, I hope you will not understand me as making any complaint on a personal ground. None; none whatever. I felt relieved from the responsibility of the situation which my friends, more than myself, wanted me to be placed in. But it was the North, it was New York it was Pennsylvania, unintentionally, aided by other free States, that led to the adoption of the tariff of 1846, by the results of the contest of 1844.

Mr. President, I wish I had the physical power to give utterance to the many, many ideas which I still have; but I have it not. I must hasten toward a conclusion.

The responsibility of this great measure passes from the hands of the committee, and from my hands. They know, and I know, that it is an awful and tremendous responsibility. I hope that you will meet it with a just conception and a true appreciation of its magnitude, and the magnitude of the consequences that may ensue from your decision one way or the other. The alternatives, I fear, which the measure presents, are concord and increased discord; a servile civil war, originating in its causes, on the lower Rio Grande, and terminating, possibly, in its consequences, on the upper Rio Grande in the Santa Fé country—or the restoration of harmony and fraternal kindness.

I believe from the bottom of my soul, that the measure is the re-union of this Union. I believe that it is the dove of peace, which, taking its ærial flight from the dome of the capitol, carries the glad tidings of assured peace and restored harmony to all the remotest extremities of this distracted land. I believe that it will be attended with all these beneficent effects. And now let us discard all resentment, all passions, all petty jealousies, all personal desires, all love of place, all hungering after the gilded crumbs which fall from the table of power. Let us forget popular fears, from whatever quarter they may spring. Let us go to the limpid fountain of unadulterated patriotism, and, performing a solemn lustration, return divested of all selfish, sinister, and sordid impurities, and think alone of our God, our country, our consciences, and our glorious Union; that Union without which we shall be torn into hostile fragments, and sooner or later become the victims of military despotism, or foreign domination.

Mr. President, what is an individual man? An atom, almost invisible without a magnifying glass—a mere speck upon the surface of the im-

mense universe—not a second in time, compared to immeasurable, never-beginning, and never-ending eternity; a drop of water in the great deep, which evaporates and is borne off by the winds; a grain of sand which is soon gathered to the dust from which it sprung. Shall a being so small, so petty, so fleeting, so evanescent, oppose itself to the onward march of a great nation, to subsist for ages and ages to come—oppose itself to that long line of posterity which, issuing from our loins, will endure during the existence of the world? Forbid it, God! Let us look at our country and our cause; elevate ourselves to the dignity of pure and disinterested patriots, wise and enlightened statesmen, and save our country from all impending dangers. What if, in the march of this nation to greatness and power, we should be buried beneath the wheels that propel it onward. What are we—what is any man worth who is not ready and willing to sacrifice himself for the benefit of his country when it is necessary?

Now, Mr. President, allow me to make a short appeal to some senators—to the whole of the Senate. Here is my friend from Virginia, (Mr. Mason) of whom I have never been without hopes. I have thought of the revolutionary blood of George Mason which flows in his veins—of the blood of his own father—of his own accomplished father—my cherished friend for many years. Can he, knowing, as I think he must know, the wishes of the people of his own State; can he, with the knowledge he possesses of the public sentiment there, and of the high obligation cast upon him by his noble ancestry, can he hazard Virginia's greatest and most glorious work—that work, at least, which she, perhaps more than any other State, contributed her moral and political power to erect? Can he put at hazard this noble Union, with all its beneficial effects and consequences, in the pursuit of abstractions and metaphysical theories—objects unattainable, or worthless, if attained—while the honor of our common native State, which I reverence and respect with as much devotion as he does, while the honor of that State, and the honor of the South are preserved unimpaired by this measure?

I appeal, sir, to the senators from Rhode Island and from Delaware; my little friends which have stood by me, and by which I have stood, in all the vicissitudes of my political life; two glorious patriotic little States, which, if there is to be a breaking up of the waters of this Union, will be swallowed up in the common deluge, and left without support. Will they hazard that Union, which is their strength, their power, and their greatness?

Let such an event as I have alluded to occur, and where will be the sovereign power of Delaware and Rhode Island? if this Union shall become separated, new unions, new confederacies will arise. And with respect to this—if there be any—I hope there is no one in the Senate—before whose imagination is flitting the idea of a great southern confederacy to take possession of the Balize and the mouth of the Mississippi, I say in my place never, never! Never will we who occupy the broad

waters of the Mississippi and its upper tributaries, consent that any foreign flag shall float at the Balize or upon the turrets of the crescent city—never—never! I call upon all the South. Sir, we have heard hard words—bitter words, bitter thoughts, unpleasant feelings toward each other in the progress of this great measure. Let us forget them. Let us sacrifice these feelings. Let us go to the altar of our country and swear, as the oath was taken of old, that we will stand by her; we will support her; that we will uphold her Constitution; that we will preserve her Union, and that we will pass this great, comprehensive, and healing system of measures, which will hush all the jarring elements, and bring peace and tranquillity to our homes.

Let me, Mr. President, in conclusion, say that the most disastrous consequences would occur, in my opinion, were we to go home, doing nothing to satisfy and tranquillize the country upon these great questions. What will be the judgment of mankind, what the judgment of that portion of mankind who are looking upon the progress of this scheme of self-government as being that which holds out the highest hopes and expectations of ameliorating the condition of mankind—what will their judgment be? Will not all the monarchs of the old world pronounce our glorious republic a disgraceful failure? What will be the judgment of our constituents, when we return to them and they ask us, How have you left your country? Is all quiet—all happy—are all the seeds of distraction or division crushed and dissipated? And, sir, when you come into the bosom of your family, when you come to converse with the partner of your fortunes, of your happiness, and of your sorrows, and when in the midst of the common offspring of both of you, she asks you, "Is there any danger of civil war? Is there any danger of the torch being applied to any portion of the country? Have you settled the questions which you have been so long discussing and deliberating upon at Washington? Is all peace and quiet?" What response, Mr. President, can you make to that wife of your choice, and those children with whom you have been blessed by God? Will you go home and leave all in disorder and confusion, all unsettled, all open? The contentions and agitations of the past will be increased and augmented by the agitations resulting from our neglect to decide them. Sir, we shall stand condemned by all human judgment below, and of that above it is not for me to speak. We shall stand condemned in our own consciences, by our own constituents, and by our own country. The measure may be defeated. I have been aware that its passage for many days was not absolutely certain. From the first to the last I hoped and believed that it would pass, because from the first to the last I believed it was founded on the principles of just and righteous concession—of mutual conciliation. I believe that it deals unjustly by no part of the republic; that it saves their honor, and, as far as it is dependent upon Congress, saves the interests of all quarters of the country. But, sir, I have known that the decision of its fate depended upon four or five votes in the Senate of the United States,

and upon whose ultimate judgment we could not count upon the one side or the other, with absolute certainty. Its fate is now committed to the hands of the Senate, and to those five or six votes to which I have referred. It may be defeated. It is possible that, for the chastisement of our sins or transgressions, the rod of Providence may be still applied to us, may be still suspended over us. But, if defeated, it will be a triumph of ultraism and impracticability—a triumph of a most extraordinary conjunction of extremes; a victory won by abolitionism; a victory achieved by free-soilism the victory of discord and agitation over peace and tranquillity; and I pray to Almighty God that it may not, in consequence of the inauspicious result, lead to the most unhappy and disastrous consequences to our beloved country. (Applause.)

Mr. BARNWELL. It is not my intention to reply to the argument of the senator from Kentucky, but there were expressions used by him not a little disrespectful to a friend whom I hold very dear, and to the State which I in part represent, which seem to me to require some notice. * * *

Mr. CLAY. Mr. President, I said nothing with respect to the character of Mr. Rhett, for I might as well name him. I know him personally, and have some respect for him. But, if he pronounced the sentiment attributed to him of raising the standard of disunion and of resistance to the common government, whatever he has been, if he follows up that declaration by corresponding overt acts, he will be a traitor, and I hope he will meet the fate of a traitor. [Great applause in the galleries, with difficulty suppressed by the chair.]

The PRESIDENT. The chair will be under the necessity of ordering the gallery to be cleared if there is again the slightest interruption. He has once already given warning that he is under the necessity of keeping order. The Senate chamber is not a theater.

Mr. CLAY resumed. Mr. President, I have heard with pain and regret a confirmation of the remark I made, that the sentiment of disunion is becoming familiar. I hope it is confined to South Carolina. I do not regard as my duty what the honorable senator seems to regard as his. If Kentucky to-morrow unfurls the banner of resistance unjustly, I never will fight under that banner. I owe a paramount allegiance to the whole Union—a subordinate one to my own State. When my State is right—when it has a cause for resistance, when tyranny, and wrong, and oppression insufferable arise—I will then share her fortunes; but if she summons me to the battle-field, or to support her in any cause which is unjust against the Union, never, never will I engage with her in such a cause.

With regard to South Carolina, and the spirit of her people, I have said nothing. I have a respect for her; but I must say, with entire truth, that my respect for her is that inspired by her ancient and revolutionary character, and not so much for her modern character. But, spirited as she is, spirited as she may suppose herself to be, competent as she may think herself to wield her separate power against the power of this Union, I will

tell her, and I will tell the senator himself, that there are as brave, as dauntless, as gallant men and as devoted patriots, in my opinion, in every other State in the Union, as are to be found in South Carolina herself; and if, in any unjust cause, South Carolina or any other State should hoist the flag of disunion and rebellion, thousands, tens of thousands, of Kentuckians would flock to the standard of their country to dissipate and repress their rebellion. These are my sentiments—make the most of them

WHO OCCASIONED THE LOSS OF THE BILL?

IN SENATE, AUGUST 1, 1850.

[THE Compromises of 1850 had been in debate from January 29 to July 31, on which latter day the final vote on the bill reported by the Committee of Thirteen, to admit California, to establish territorial governments over Utah and New Mexico, and to compensate Texas for her claims on that part of New Mexico which lies east of the Del Norte, was taken; and the bill was lost by thirty-two to eighteen. It was not because the Senate had determined not to pass these measures in detail; but because they preferred to pass them in separate bills; which was soon after done. But Mr. Clay was disappointed, perhaps mortified at this result. On the 1st of August, therefore, Mr. Clay referred to the loss of this bill with considerable spirit, and held Mr. Pearce of Maryland responsible for having occasioned its loss, by a very indiscreet amendment.]

MR. CLAY said:

I wish to say only a few words. We have presented to the country a measure of peace, a measure of tranquillity; one which would have harmonized, in my opinion, all the discordant feelings which prevail. That measure has met with a fate not altogether unexpected, I admit, on my part, but one which, as it repects the country at large, I deplore extremely. For myself, personally, I have no cause of complaint. The majority of the committee to which I belonged, have done their duty, their whole duty, faithfully and perseveringly. If the measure has been defeated, it has been defeated by the extremists on the other side of the chamber and on this. I shall not proceed to inquire into the measure of responsibility which I incurred. All I mean to say upon that subject is, that we stand free and liberated from any responsibility of consequences. How it was defeated, we know full well. The proposition of the senator from Maryland [Mr. Pearce] made, no doubt, upon a conscientious conviction of his duty, led to the defeat—was the immediate cause of it. That proposition led to consequences, I repeat, which are fresh in the recollection of the Senate.

Sir, I have said, from first to last that there was no fear in regard to the admission of California, and I think so still; and if the proposition of my worthy friend from Mississippi had been received in the spirit in which it was tendered on the other side of the hall by southern senators, I would have voted for it with great pleasure. But, sir, it is presented now, not as a part of a general pledge or plan of compromise, but as a separate measure, detached from any compensating measures contained in a combined bill, and relates only to California itself.

Now, Mr. President, I stand here in my place, meaning to be unawed by any threats, whether they come from individuals or from States. I should deplore, as much as any man living or dead, that arms should be raised against the authority of the Union, either by individuals or by States. But, after all that has occurred, if any one State, or a portion of the people of any State, choose to place themselves in military array against the government of the Union, I am for trying the strength of the government. [Applause in the galleries, immediately suppressed by the chair.] I am for ascertaining whether we have got a government or not—practical, efficient, capable of maintaining its authority, and of upholding the powers and interests which belong to a government. Nor, sir, am I to be alarmed or dissuaded from any such course by intimations of the spilling of blood. If blood is to be spilt, by whose fault is it to be spilt? Upon the supposition, I maintain it will be the fault of those who choose to raise the standard of disunion, and endeavor to prostrate this government; and, sir, when that is done, so long as pleases God to give me a voice to express my sentiments, or an arm, weak and enfeebled as it may be by age, that voice and that arm will be on the side of my country, for the support of the general authority, and for the maintenance of the powers of this Union. [Applause in the galleries.]

The PRESIDING OFFICER. Order!

MR. CLAY. Sir, I have done all—

The PRESIDENT (resuming the chair, which had been occupied by Mr Atchison). The senator from Kentucky will take his seat for a moment.

MR. CLAY. I hope there will not be another repetition of the applause.

The PRESIDENT. The chair has on several occasions warned the spectators in the gallery against the consequences of attempting to turn the Senate chamber into a theater. Again he says to them, if there is any disturbance of a similar description, every individual shall be cleared from the gallery.

MR. WALKER. If the senator from Kentucky will allow me to say a word, I will be obliged to him. I do not say what I now say for the purpose of encouraging this expression of approbation from the gallery; but if any thing ever gave me pleasure, it is to hear such sentiments as the senator from Kentucky has spoken applauded.

The PRESIDENT. Order! The senator will take his seat.

MR. CLAY. Mr. President, I have done all—I am willing to do all that

is in the power of man to do to accommodate the differences of the country. I have not been attached to any given form of settling our troubles and of restoring contentment to the Union. I was willing to take the measures united. I am willing now to see them pass separate and distinct, and I hope they may be passed so without that odious proviso which has created such a sensation in every quarter of the Union. But whether passed or not, I repeat the sentiment, if resistance is attempted to any authority of the country, by any State or any people of any State, I will raise my voice, my heart, and arm in the support of the common authority of the general government. Nor am I apprehensive of the idea that blood is to be shed. From the bottom of my heart I hope that it never will be shed. But if it is shed, who will be chargeable with the effusion of human blood? Those who attempt to prostrate the general authority upon the supposition I have made, that a single State—if there shall be one—or the people of any State, choose to raise the standard of disunion and attempt to destroy by force this Union. God knows I desire no such thing. But if it occurs, I will be among the last who will give up the effort to maintain the Union in its entire, full, and vigorous authority.

Sir, these threats are not so alarming and so dangerous as gentlemen in their imagination may suppose. We have had an event of the kind in our history. When Washington was our president—now sixty years ago—the standard of insurrection was raised in the western part of Pennsylvania. The army of the United States moved forward for the purpose of subduing it. There was some little blood shed in the house of Colonel Neville. But the insurgents then—as disunionists and traitors always will—fled from the approach of the flag of the Union, supported by the authority of the Union and countenanced by the Father of the Union.

My worthy friend who sits near me (Mr. Dawson) has adverted to some language in a resolution which I offered in the early part of the session as implying a willingness on my part to circumscribe the limits of California, Mr. President, I have stated already to him, and to the Senate, that at the time that resolution was proposed, I was laboring under an impression that by an ordinance of the convention of California a provision was made that Congress should alter her boundary according to its own supposition as to its appropriateness. I afterward found that I was mistaken. The word "suitable," implying nothing in particular, was introduced in order to allow the Senate and the country a discretion to be applied to the whole subject, and to exercise such a judgment upon the whole subject as might be deemed proper. It was not a restriction as certainly and necessarily to be adopted. It is to admit with "suitable" boundaries. Now, I say that, under all the circumstances of the case, considering what was proposed, what was offered by senators on this side of the chamber, the boundaries are suitable; and, being so, I am constrained reluctantly to vote against the amendment of the honorable senator from Mississippi.

Mr. Pearce. Mr. President, I am very loth to intrude upon the atten-

tion of the Senate; but the remarks which have fallen from the senator from Kentucky, while I concur in much that he has said, oblige me to ask the indulgence of the Senate for a very brief period. That senator has said that the amendment which I offered to the Senate yesterday was the direct cause of the defeat of the bill.

Mr. Clay (in his seat). The immediate cause.

Mr. Pearce. The immediate cause. Well, I admit that the defeat of the bill was subsequent to my amendment; and if the *post hoc propter hoc* is argument, a sound one, I suppose I may be charged with it. * * *

But, come what may, and censure who may, I will not shrink from the responsibility, and I will never cease to defend and vindicate my course, wherever and by whoever attacked.

Mr. Clay. Nor will I, sir. It belongs to the history of the country, and it will go out. With regard to the senator's motives and his ready and fearless encounter of the responsibility, I say nothing. I suppose upon that subject he is like most other men. But I repeat what I said, that the immediate cause of the loss of the bill was the amendment of the honorable senator. I make no reproaches against him. I have no doubt that he acted under a sense of duty, and according to his convictions as to what was proper for him as a senator from Maryland to do. Still the truth remains, and the senator has told us that he has no sort of objection to assume the whole of the responsibility.

Mr. Pearce (in his seat). Not unjustly.

Mr. Clay. Let me recapitulate a few facts. When the amendment was offered by the senator from Georgia, on day before yesterday, it was carried by a vote of 30 to 28. If my recollection is right the senator did not vote upon it.

Mr. Pearce. When the motion for the amendment of the senator from Georgia was voted on, I voted against it. If the secretary will turn to the record, he will find my name recorded in the negative.

Mr. Clay. At all events the senator did not oppose it by any speech. He did not say what he said yesterday. He made no intimation of opposition so serious to that amendment, that if adopted the consequence might be the loss of his vote. But that is not all. Now, sir, I want to call the attention of the senator to his own course yesterday upon this subject. Three times was that senator approached with amendments containing, I believe, substantially the very object which he was desirous to accomplish. One was taken from my chair to him. The second was given to him by his neighbor, the senator from Illinois (Mr. Douglas), who had obtained the previous consent of the senators from Texas. There were one or two others. The senator declined to accept of any amendment, but persisted in his own, and that persistence led to the consequences to which I have alluded. Not only did he fail to take the suggestions of the friends of the bill, but when the senator from Florida (Mr. Yulee), one of the most determined opponents of the bill, asked him to separate his motion,

which was inseparable by the rules of the Senate, the moment the appeal was made, he yielded to his wishes. If he had persevered in his own motion to strike out and insert, I doubt if the result would have been the same. These are facts, none of which I presume the senator is disposed to call in question. I make no reproaches to the senator. I have no doubt he has acted upon conscientious motives, and of his willingness to meet all the responsibility. But having been charged with this bill, being the chairman of the committee who reported it, I thought it right the country should know the circumstances under which it was lost.

[It has been said, that Mr. Clay assented to Mr. Dawson's amendment, on which Mr. Pearce's amendment was based. The following remarks of Mr. Clay, made immediately after Mr. Pearce had announced his own amendment, will show that he did not assent.]

Mr. Clay. I certainly can not repress the expression of my regret and surprise at this motion. What is its effect? It is to destroy one of the most valuable features of the bill, the object of which is the adjustment of this troublesome boundary question. Now, I think the senator from Maryland should not have been quite so quick in his motion. There were amendments in progress; two were thought of, one of which was to suspend the operation of this territorial provision on both sides of the river until the 1st day of April, with an express provision that after that time, if the boundary is not settled, it shall go into operation on both sides. But even in the shape in which it is, I do not think it is liable to the objections which the senator has uttered. What is it? It is proposed to establish a territorial government on the west side of the river. Well, does it follow, when the operation of the bill is expressly suspended on the east side of the river, that legislation by the territorial government on the west side will operate on the east side? No such thing. When the Territory on the east side comes to be annexed to the Territory on the west side, and there is a common government for both sides, then both will be represented in it; and if there has been any legislation by the west side, the east side coming in with a larger vote, could suspend, alter, or modify those laws at their pleasure. I hope my friend from Maryland, who, I have all along believed, and I yet believe, is desirous for the passage of some effectual measure, will withdraw his amendment until he sees the result of an effort to make the bill consonant with his own peculiar views. Amendments have been contemplated with respect to the operation of the amendment of the senator from Georgia, which will restrain the effect, or rather prevent the effect which is apprehended of a surrender to Texas of all that she claims.

Mr. President, light was beginning to break upon us—land was beginning to be in sight once more—and is it possible, upon slight and unimportant amendments—amendments which will not affect the great object of this bill, upon mere questions of form and punctilio—that we shall now

hazard the safety, the peace, if not the union of the country. I hope that senators, meeting in a spirit of conciliation, and waiving slight objections, will act upon the great principles which led our fathers to adopt the Constitution, and which is suggested in the letter of the Father of this country to the people of the United States, when he stated that there were difficulties and objections, but that all were waived in a spirit of conciliation and peace, and that they had consented to establish a government that would last through that generation, and for posterity. Now, sir, if the amendment proposed by the senator from Georgia shall be restricted, so as to guard against the effect of any concession to Texas of rights on the east side, what is the objection to it? But if a further amendment be made, which can be made, for a suspension of the operation of the whole territorial provision until this effort shall be made to settle the question, let me ask where, then, is the objection of the senator to it? But is it not strange that it should be contended, that, while the question is unsettled, we should create a government to operate on the east side of the river, without reference to the state of the title and the contingences which may happen, and that it shall go into operation and legislate for the whole country? I will put a case just as strong, if there is any thing in it, which I think there is not, as that urged by the senator from Ohio [Mr. Ewing]. Suppose we pass a bill embracing the east and west sides of the Rio Grande, and suppose that ultimately the east is cut off, and the west side is left by itself by the establishment of the title of Texas—what, then, would become of the law made by the whole Territory, the east side being a part, and the west side being a part—when the east side should be no longer a part, but be taken away by the establishment of the title of Texas? I think these imaginary difficulties should not affect the great principle and soul of the measure. Our object is to settle this question of boundary as soon as possible—in half a dozen months—and when it is settled we shall know what we are about. We shall know whether we should establish a government in the Territory that belongs to us rather than to Texas. We shall know whether we shall go on blindfolded or with our eyes open, looking to all the consequences. The proposition of the senator from Georgia is sufficiently clear, as I think; but, if not, it can be made so by amendment; for its object is simply to postpone the operation of a government in the disputed territory until this dispute shall be amicably settled by the parties.

[In the same debate, Mr. Clay said as follows:]

There is a language too often employed by senators now and heretofore speaking for the South—"the South, the whole South." Sir, I should think it would be very fortunate if senators were always confident that they were able to represent the sentiments of their own States, without attempting to speak of the sentiments of States whose limits are exterior to their own. Now, I speak in no unkind spirit toward the senator from

Virginia; but I believe that if the people of Virginia had been here, four fifths of them would have voted for that compromise measure which the senator from Virginia has felt it his duty to oppose. I know that the opportunities of the senator from Virginia are much better than my own to obtain information of their wishes, but I profess to know something of the State that gave me birth; and I believe that if the people of Virginia were to be polled to-morrow, three fourths or four fifths of them would be found to be in favor of this measure. Now, sir, do the honorable senators from Virginia and South Carolina imagine that when they return to their constituents with the opposite opinions prevailing upon the subject of this compromise, of this olive-branch held out to the wholeUnion—do they expect to be able to have the sword drawn against the Union, amid such a conflict of opinions as will arise in the slaveholding States upon the very ground of the rejection of this compromise? Mr. President, I have said that I want to know whether we are bound together by a rope of sand, or an effective, capable government, competent to enforce the powers therein vested by the Constitution of the United States. And what is this doctrine of nullification, set up again, revived, resuscitated, neither enlarged nor improved, nor extended in this new edition of it? That when a single State shall undertake to say that a law passed by the twenty-nine States is unconstitutional and void, she may raise the standard of resistance and defy the twenty-nine. Sir, I denied the doctrine twenty years ago—I deny it now—I will die in denying it. There is no such principle. If a State chooses to assume the attitude of defiance to the sovereign authority, and set up a separate nation against the nation of twenty-nine States, it takes the consequences upon itself, and the question is reduced to this: Shall the other twenty-nine yield to the one, or the one yield to the twenty-nine? Call it by what mystic name you please—a State, a corporation, a sovereignty—whatever force of a State is put in array against the authority of the Union, it must submit to the consequences of revolt, as every other community must submit when a revolt is made.

Gentlemen lay to their souls the flattering unction that the army is composed of officers from Virginia, South Carolina, and other southern States, and the army will not draw their swords. Why, sir? the army of the United States, under the command of the chief magistrate of the United States, under the command of the gallant officer recently making the conquest of Mexico, will not do their duty? Gentlemen will find themselves utterly mistaken if such a state of things arises.

But we are told this story of Bernadotte, and I may say I did not put the case of Virginia. I respect her. I venerate her. She is my parent and I have always feelings toward her which are inspired in the filial bosom toward its parent. I did not put the case of Virginia by name. I put the case of no State by name. The honorable senator from South Carolina put his words into my mouth when he made me refer to his State. But if any State chooses to array itself in authority, and give orders to its

citizens to set themselves in military or hostile array toward the Union, the Union is gone, or the resistance must cease. The honorable senator tells us of the story of Bernadotte, who, when he came to the confines of France, was unwilling to invade his native country. Let me remind the senator of a case much more analogous to true republican liberty doctrines than the case of the King of Sweden, who was made such under the authority of Bonaparte, whom he resisted. I admire more that Roman father who, for the sake of Rome, condemned and caused to be executed his own son: that is my notion of liberty.

And with respect to my country, the honorable senator speaks of Virginia being my country. This Union is my country; the thirty States are my country; Kentucky is my country, and Virginia no more than any other of the States of this Union. She has created on my part obligations and feelings, and duties, toward her in my private character which nothing upon earth would induce me to forfeit or violate. But even if it were my own State—if my own State, lawlessly, contrary to her duty, should raise the standard of disunion against the residue of the Union, I would go against her. I would go against Kentucky herself in that contingency, much as I love her.

ON THE ABOLITION OF THE SLAVE-TRADE IN THE DISTRICT OF COLUMBIA.

IN SENATE, SEPTEMBER 3, 4, 11, 12, & 14, 1850.

[Mr. Clay, relieved of his charge of the bills reported by him as chairman of the Committee of Thirteen, when the first of those bills was lost, on the 31st of July, his health being very much impaired, went to Newport, on the 2d of August, for sea-air and bathing; and returned to Washington in about three weeks, in season to engage in the debate on the bill to abolish the slave-trade in the District of Columbia. All the other Compromise measures, as reported by him, had passed the Senate in his absence, each in a separate bill. Mr. Clay had the pleasure of seeing them all go through both Houses of Congress, and approved by the president, although they did not pass in what was called the "omnibus" form. The country demanded the adoption of Mr. Clay's entire plan of Compromise, and it was done. The following are extracts from what he said on the bill to abolish the slave-trade in the District of Columbia, in its successive stages.]

The Senate, as in Committee of the Whole, proceeded to the consideration of the bill to suppress the slave-trade in the District of Columbia.

The bill was read by the secretary.

Mr. Clay. The bill which the Senate has ordered to be taken up for consideration is a very short one, and the subject-matter of it has been very often, and very much discussed, and it is not my purpose, in rising to call the attention of the Senate to it, to occuppy more than a few minutes of their time. The object of the bill is to abolish what is called the slave-trade in the District of Columbia. By the slave-trade is meant a foreign slave-trade, as it respects the interests of the District. It consists of the introduction within the District of the slaves from adjoining slave States, and their being placed in dépôt here, not for the purpose of finding a market at all in the District—for I am told that scarcely a case has ever

occurred of the purchase by an inhabitant of the District of a slave deposited in one of these places of confinement—but for subsequent transportation to different markets by land or water—generally by water—to the southern cities, particularly to Mobile and New Orleans. It is a trade in which the inhabitants of the District have no sort of interest and no sort of connection, and which only brings upon the District a degree of obloquy on the part of all those—of whom I profess to be one—who regard this species of trade as a thing to be abhorred, and to be avoided wherever it can. The bill does not propose to interfere in the slightest degree with the right of one inhabitant of the District to sell a slave to another inhabitant of the District, nor does it interfere with the right on the part of the inhabitant of the District to go out of it and purchase for his own use a slave, and to bring the slave within the District for his own use. The bill consists of two sections, and is in fact merely a revival of the law of Maryland, as that law existed at the time of the cession of this District. It is but the mere exercise of a power by the general government which has been exercised by various States of the Union, and among others, I think the earliest, by Virginia herself. It consists, as I said before, of only two sections, the first of which is a prohibition of the right of any owner of a slave, or any person with the consent of the owner, bringing a slave into this District for sale, or to be placed in dépôt for the purpose of being transported as merchandise for sale to a distant market. That is the first section, and the second invests the local authorities of the District with the power to prohibit all dépôts being established within the District for the confinement of slaves. I have never visited one of these dépôts, and I understand from the public authorities of the District that there is perhaps but one remaining at the present time, but it is one with slaves continually in it. These dépôts are nothing more nor less than private jails, subject to no inspection of public authority, under the exclusive control of those who erect them, or for whose use they are erected, and all the prisoners or slaves confined in them are subject to the police regulations which may be established from time to time by the owner of the jail.

The object of the bill is to discontinue this foreign slave-trade as respects the District, and to let them go somewhere else—either to Virginia, if slaves can be deposited there, or to Maryland, if they can be deposited there—but to exclude a traffic within the District which has no connection within the District, and which has no other result, as I remarked before, than of bringing some degree of odium on the District. It has been denounced more or less during the last forty years; in the first instance, by a distinguished and lamented citizen of Virginia, who, I believe, first brought it to public notice; and again and again, from time to time, has it met with denunciation from other persons. It is not my purpose, as I said before, to go into any elaborate argument on the subject to prove the propriety of abolishing a trade thus foreign to the people of the District, as I think it has been fully discussed, and my object is to economize time

as much as possible. I have two unimportant amendments to propose, and then I will let the measure take its course.

In the first section, after the word "place," in the eighth line, I propose to insert the words "to be sold as merchandise." I believe that such will be the construction of the law without these words, but it is better, perhaps, to insert them. The section will then read:

"That from and after the —— day of —— next, it shall not be lawful to bring into the District of Columbia any slave whatever for the purpose of being sold, or for the purpose of being placed in dépôt, to be subsequently transferred to any other State or place to be sold as merchandise. And if any slave shall be brought into the said District by the owner, or by the authority or consent of its owner, contrary to the provisions of this act, such slave shall thereupon become liberated and free."

The amendment was adopted.

MR. CLAY. The next amendment is in relation to the proper denomination of the court of Washington county, in the second section. It now reads "the county court of Washington." The technical term is the "levy court of Washington county." I move to amend it by striking out the words "county court of Washington" wherever they occur, and inserting in lieu thereof the words "levy court of Washington county." It is merely an informal amendment.

The amendment was adopted.

MR. CLAY. I now move to insert in the eleventh line of the first section before the word "limits," the word "jurisdictional," so that it would read "jurisdictional limits." There is a distinction of limits, I understand—one being territorial, and the other jurisdictional.

The amendment was adopted, and the section, as amended, is as follows:

"SEC. 2. *And be it further enacted*, That it shall and may be lawful for each of the corporations of the cities of Washington and Georgetown, from time to time, and as often as may be necessary, to abate, break up, and abolish any dépôt or place of confinement of slaves brought into the said District as merchandise, contrary to the provisions of this act, by such appropriate means as may appear to either of the said corporations expedient and proper. And the same power is hereby vested in the levy court of Washington county, if any attempt shall be made within its jurisdictional limits to establish a dépôt or place of confinement for slaves brought into the said District as merchandise for sale, contrary to this act."

Same day MR. CLAY also said:

The first regular question is on the amendment just proposed, and the next upon the amendment offered by the senator from Mississippi. (Mr. Foote.) But before I say any thing upon the subjects of these amendments, I wish to make a very short reply to some of the topics which the senator from Virginia (Mr. Hunter), has introduced. I have no inclination, and if

I had it would be, in my opinion, altogether useless, to follow that senator in the wide range which he has taken, particularly where he dwelt upon the blessings which he supposes to be imparted to the African race by that African slave-trade, which, I believe, has met with the almost unanimous detestation of mankind. The senator talks about "sentimental legislation." Well, sir, my opinion is, that all legislation should be the result both of the head and of the heart. A combination of those two great portions of a human being should always prompt that sort of legislation adapted to the use and benefit of mankind. I do not mean to go into these questions at large. The bill which is on your table is one of a series of measures reported by the committee of thirteen, all of which, with the exception of this bill, have received in some form or other the sanction of the Senate, and have been transmitted to the other House. This is the last of the series. The senator from Virginia thinks that he sees in it the foundation of the abolition of slavery within the District. Directly otherwise was the object of the committee, and so, I believe, will be the tendency of the law, if it shall be enacted. Two complaints have been argued constantly in respect to the existence of slavery within this District, one having for its object the abolition of slavery here, the other the abolition of the foreign slave-trade, as I have denominated it, I think correctly, within the District. These two topics of agitation have been urged, at the North especially, with great earnestness and with great justice, as regards the latter. Now, the committee propose to abolish this foreign slave-trade within the District, with respect to which, as I shall presently show, there can not exist, in my humble opinion, a moment's doubt with regard to the power, unless gentlemen carry themselves into the regions of metaphysics and abstractions. I think there can not be a particle of doubt of it. If this slave-trade is abolished it will satisfy, to a great extent, northern feeling, and I add with pleasure, southern feeling too; for I have shared in the horror at this slave-trade in this District, and viewed it with as much detestation as any of those at the North who complain of it.

The honorable senator has adverted to an argument which was urged in the case of Groves and Slaughter. The argument urged in that case was, that, by the Constitution of the United States, the regulation of trade between the States, and consequently, the regulation of the trade in slaves between the States, was vested in the Congress of the United States, and that no State can undertake to prohibit within its own limits the introduction of slaves—they being an article of commerce—from other States. That was the argument; and it suggested itself to the counsel as one which belonged to the case, and which it was his duty to urge before the court. But why state the argument of myself, or of the distinguished gentleman who now fills another important post in the government? (Mr. Webster.) The question is, what did the court decide. The State of Mississippi had provided by her Constitution that slaves should not be introduced within her limits as merchandise. The argument of the counsel was, that it was a

power which belonged to Congress, and not to the State of Mississippi. There were other arguments which it is unnecessary to mention.

The court decided that it was a power which every State had a right to exercise, and that every State in the Union might forbid the introduction of slaves within her limits as merchandise, from any other State. That was the decision of the court, and that decision is the only matter of any consequence in the consideration of this question. Apply it to this case, and what does it amount to? Why, inasmuch as the power of Congress over this District is perhaps equal to the power of the several States within their respective limits, and as every State has the power to prohibit the slave-trade within its own limits, so it would seem necessarily to follow that Congress possesses this power here. But, sir, the senator has not, with his usual power of discrimination, distinguished between the exercise of a power undertaking to regulate the slave-trade between the States and the exercise of a power to prohibit the slave-trade within the District. Well, how do the two cases stand? The power of Congress to regulate the slave-trade between the States depends upon a general grant contained in the Constitution to regulate trade. But that grant does not extend to the case of slaves, on account of principles of police, which appertain to each State, and of which it is the exclusive judge. Well, now, if every State in the Union, on considerations of police, or any other considerations connected with the happiness of their people, may prohibit the slave-trade within the respective limits of each State, may not the general government do it within the District of Columbia?

But I come now to the power about which I say that in my opinion there can not be the least particle of doubt, unless men launch out into the regions of abstractions and metaphysics. What is the power? Congress shall have power (says the Constitution) to legislate in all cases whatsoever within the District ceded to Congress by any State for the seat of government. There is, therefore, no limitation or restriction in that grant which circumscribes the power of Congress to break up this detestable slave-trade within the District of Columbia.

Now, with regard to all the arguments of the senator with respect to the benefits from emigration, whether voluntary or involuntary, whether of bond or free, what has that to do with the particular case before us? Here are six miles square, or not so much, I believe, since the retrocession to Virginia, in which a trade is carried on, not in the property of the District, not in the slaves of the District; but the slave-traders, finding it convenient to erect their dépôts within this District, have from time to time erected them. I am very glad to learn, from the highest authority—the mayor of the city—that there is but one dépôt remaining where slaves are to be found constantly for sale. I have heard that no inhabitant of the District was ever known to have purchased slaves from these dépôts. Slaves are brought here from Virginia and Maryland, and perhaps from other States, and kept here till it suits the persons engaged in the trade to

transport them to New Orleans, Mobile, or some other southern market. And now it is seriously contended, not only that there is no power on the part of Congress to abolish this trade, but that if it is abolished in this six miles square—thereby giving greater security against the agitation of the question of the abolition of slavery itself within the District—that it is one of these circumstances which is to frighten the whole of the South out of its propriety.

Sir, I offer advice to no one, but I beg leave to suggest that if gentlemen coming from that portion of the Union would be less liable to take alarm upon the slightest circumstance, and not be dreading every possible occurrence lest it should touch the particular institution which they cherish so much, I believe they would add safety and security to that institution itself; and I am sure there would be less of agitation throughout the country at large. What! can not Congress, with a power to legislate in all cases whatsoever, put an end to these jails, in which, without authority of law, the owners or traders are the jailors, and the subjects of this imprisonment are slaves brought from a distance, and perhaps under circumstances shocking to humanity? Can not Congress, within this small circumscribed District, and under an authority to legislate in all cases whatsoever, put an end to this traffic without creating sensations of alarm from the shores of the Potomac to the Rio Grande? I should really hope so. But I do not mean to dwell longer on these general topics, which the senator from Virginia has thought proper to urge upon this occasion.

I wish now to say a few words with regard to the amendments which have been offered. As to the proposition of the senator from Mississippi, I am disinclined to it. I prefer the bill as reported by the committee of thirteen, and I feel it my duty to insist upon it. The bill as reported by the committee is direct, straightforward, appropriate to its object, and employing the requisite and proper means to carry that object into effect. The amendment of the senator from Mississippi introduces a great variety of subjects. It relates to the abduction of free persons of color and the seduction of slaves from their owners, and it provides for the bringing by *habeas corpus* before the proper tribunal the question of freedom or slavery in any case of a person alledged to be improperly held in slavery. So also of the amendment of the senator from Maryland (Mr. Pearce). It relates to a matter of very great importance, and proposes to impose a very heavy penalty for the seduction of slaves from their masters. Now, all these matters might be very proper in a code of regulations about to be adopted by Congress for regulating the conduct and condition of the persons of color, whether free or bond, within the District; but I hope they will be introduced in a separate bill. It is too late in the session now to take up all these subjects, discuss them, and dispose of them; and I trust the amendments will not be concurred in, but that the bill as it has been before us for months, and as it has been discussed and considered, will be disposed of as the Senate may think proper.

The suggestion made by the senator from Maryland, that the present penalty imposed, under the laws now in force in the District, for the seduction of slaves from their owners by abolitionists, or whatever else they call themselves, are inefficient, may be very true; but let him introduce a bill to remedy that evil. At this late period of the session, however, I hope no new bill will be taken up, but that we shall confine ourselves to the consideration of this one, which has been before us so long, and dispose of it.

With regard to the effect of the amendment of the senator from Mississippi, I will add one word. There is no provision in it, as in the bill, for abolishing the dépôts of the slaves; and those provisions making the ingress and egress of persons of color, whether bond or free, in the District of Columbia, to be subject to the legislation of the local authorities, are indefinite and uncertain.

Again: the language of the amendment of the senator from Mississippi is indefinite, and liable to a different interpretation. Similar words in a former act received a very limited interpretation indeed. I should doubt whether, under the language employed in the amendment, the local authorities would feel themselves authorized to prohibit by their own law the introduction for sale of slaves, or the abolition of the dépôts which are located here for the purpose of carrying on the slave-trade. The bill which we have before us is clear and distinct. It approaches its object without disguise, and will be understood by the whole country. I shall, therefore, vote against these amendments, and for the bill as it was reported by the committee of thirteen.

Again, Mr. Clay said:

Mr. President, the several objects suggested by the senator from Maryland may be, and I dare say are, very proper objects. And if he will introduce a bill separately to accomplish those objects, as far as I can co-operate in its passage I will do so. But I do hope that in this bill, which has a simple and a single object—the abolition of the slave-trade within the District of Columbia—we shall not be called upon to pass a code of laws for the colored population, free and bond, in this District.

The senator says that the free colored population in this District has increased and is increasing, and he thinks it ought to be diminished. Perhaps so. By what means, however? That is a question which should be acted upon after grave, serious, and humane consideration. Why, what will you do with them? Suppose you send them out of the District; where are they to go? It is a subject which requires much consideration.

Another proposition of the senator is with regard to providing punishment for enticing slaves away. I will go as far as any body to punish, by suitable punishment, those who attempt to entice slaves away; but the amendment seems to me to be rather too severe. It proposes to subject a person to not more than ten nor less than two years' imprisonment, for persuading a negro to elope from his master. Now, there are many cases in which, although this might be a reprehensible, it would be but a

venial offense. For instance, a free person, parent of a child in slavery, persuades the child to run away. I would punish him, but the punishment should be moderate. But I would punish much more severely one of those abolitionists who come here for the purpose of enticing away slaves.

But what I meant to say was, that some of the amendments which have been offered to the bill by my friends from Mississippi and Maryland —amendments relating to the trial of the question of freedom and such matters—relate to multifarious subjects of great importance, requiring, perhaps, legislation. I do think they ought not to be embraced in this bill. Here we have had a single object before us all the time; and the question is, whether, at this late period of the session, we shall embrace other and various subjects, amounting almost to a code for the black race here, bond and free? I think we should not. But I do not mean to dwell upon the matter. I shall feel constrained to vote against the amendments, though I should be inclined to vote for them in another form.

On the 4th of September, MR. CLAY said:

The amendment of the honorable senator from Virginia (Mr. Mason) is to strike out two sections of the bill reported by the committee of thirteen. The first of those sections prohibits the introduction of any slave into the District of Columbia for the purpose of being sold or placed in dépôt to be subsequently transported to another market. The second of those sections provides for the abolition of the dépôts themselves in which the slaves are confined in the District of Columbia. If, therefore, the motion of the senator from Virginia prevails, all that portion of the bill relating to the abolition of the slave-trade in the District of Columbia will be stricken out, and it will become one of a totally different character, providing only for the punishment of persons enticing slaves from the District, and investing a power in the corporation to prohibit free persons of color from coming into the District. It is important for the Senate to understand the effect of the motion of the senator, because if it prevails there is an end to the attempt to abolish the slave-trade in the District of Columbia.

I do not mean to go at any length into the argument on the subject. My principal object now is to arrive at a decision. The senator from Virginia (Mr. Mason) seemed to suppose that I was mistaken in the law of Virginia, and in the law of Maryland. I think not, sir. The law of Virginia, at the time of the cession to the general government of that portion of the District which was retroceded to her, and the law of Maryland, both prohibited the introduction into those States respectively of slaves to be sold; and both provided that if slaves were introduced in contravention of those laws, the effect should be the freedom of the slaves so introduced. That was the law of Virginia—subsequently altered, I know—for a long time. So was it the law of Maryland, though it also has been recently altered by the Legislature of that State. Both of those States, then, at

the time of the cession of this District to the general government, exercised the power which is proposed to be exercised here, with the difference only that here we propose to abolish the dépôts of these foreign slaves brought within the District: that is the sole difference. The prohibition of the introduction into Virginia and Maryland of slaves for sale existed, accompanied with denunciation of the penalty that if they were introduced they should become free. That was the state of the law in both States.

Now, sir, all that is asked upon the present occasion is, that we should do what each of those States did, with the further object of abolishing the dépôts themselves. This has been done by numerous of the slave States. It has been done by the State of Mississippi by her Constitution, and it has been done by many other States. It was done by my own State, though the law has recently been altered, but I have no doubt that it will be revived in the course of a few years. Sixteen or seventeen years ago, if I had wished to purchase a slave and carry him into Kentucky, I was prohibited from doing so by law. The question now is, whether the government may not exercise this power under the general grant contained in the Constitution, and in conformity with the action of various States of the Union. Sir, the subject has been so much under consideration that I do not mean to dwell upon it, or to occupy unnecessarily the time of the Senate.

The senator from Virginia says that he makes the motion in conformity to some resolutions passed by the Legislature of his State. I understand that the Legislature of Virginia subsequently modified its opinion upon this subject, and although it at one time attached to it a consequence far beyond any that it ever merited, yet that it subsequently modified it, and that it does not insist on it as a *sine qua non* in the arrangement of these slavery subjects. I hope this motion will be rejected, and that any further amendments which may be proposed may be received and acted on. I ask for the yeas and nays upon the amendment. * * *

I wish only to say that I prefer the bill as it stands, though I am indifferent to the fate of the amendment which is proposed; except that I think a much larger fine ought to be imposed. It ought at any rate to be equivalent to the value of the slave, for with a mere fine of one hundred dollars it might be paid, and yet profit be made by the introduction of slaves. I prefer the bill as it stands for two or three reasons, which I will briefly state. In the first place, that is the law of Virginia and Maryland as it existed at the time of the cession of this District, forbiding the introduction of a slave, and declaring that if introduced contrary to law, he shall be free; but, beside that, it is the appropriate penalty, and it is in conformity to the law which generally prevails upon the subject of contrabands. Where contraband articles of merchandise are introduced there is a forfeiture, and so there ought to be in a case of this kind.

But further, it is much more likely that the law will be efficacious, if the person introduced is entitled to his freedom, in consequence of his

introduction contrary to law, than if there is to be a pursuit of the party introducing him, and a pecuniary penalty inflicted upon him. If a slave is introduced contrary to law, there will be a motive on the part of the slave and of his friends to assert his freedom, and the law will be much more efficacious than if you let it depend upon the infliction of a pecuniary penalty, which it would be nobody's business to cause to be inflicted. But my great object is the abolition of the trade. As to the mode of effecting it—whether by declaring the slave free or inflicting a pecuniary fine—the Senate must decide between the two according to its judgment.

On the 11th September, MR. CLAY said:

Mr. President, I am extremely happy to hear this friendly explanation on the part of my friend from North Carolina. There were several instances yesterday of the occurrence of feeling, which occasioned me some regret. I hope that to-day we shall resume the consideration of the question before the Senate under better auspices, and with some disposition to reciprocate that kindness and courtesy which generally distinguishes the deliberations of this body.

I have risen, however, to say a very few words on this subject, because I do not expect to trouble the Senate much oftener during the remaining time of the session. I am very desirous that this question should be brought to a speedy termination. I am constrained, however, by my position, to make a few remarks. And, first, on the question of power. I have always held that, under the language of the Constitution, being an investment of power in Congress of exclusive legislation over this District in all cases whatsoever, there existed full and complete power over this whole subject. But in reference to the abolition of slavery within the District, I have maintained, what I now continue to maintain, that while the institution exists in Maryland now, or while it existed in Maryland and Virginia before the retrocession, it would be a gross violation of good faith to exercise this power, though it is fully and completely conveyed by the language of the Constitution.

But, sir, the question before the Senate is a totally different one. It is not the abolition of slavery in the District. So far from opening that subject, the committee intended, I intended, and I believe such will be its effect, that the slave-trade bill, if passed substantially in the form in which it was reported, should give peace and security to the maintenance of slavery within this District, until it exhausts itself by the process of time, as it would seem to be most rapidly doing. I know very well that it has been contended now, as formerly, that the general expressions contained in the Constitution, including that which vests in Congress an exclusive power of legislation here in all cases whatsoever, are subject to limitations which are contained in the Constitution. There are some limitations contained in the Constitution which operate upon the exercise of the power of Congress, when applied to this District; such as, for example, that Congress shall establish no religion, and shall not abolish the freedom of

speech or of the press. They are the restrictions which are contained chiefly in the amendments to the Constitution. There may possibly be some in the body of the Constitution itself. But there is no restriction, and I challenge the production of a restriction if there be one, which restrains the exercise of the power of Congress over a trade, foreign, alien to the District, and in which the District has not a particle of interest.

Sir, I repeat it, the power of Congress over the District is the power of legislation in all cases whatsoever. And yet the argument against the power is, that there are cases, and this is one of them, in which the legislative power of Congress can not be exercised. If there be such cases, they are to be found in the limitations of the Constitution, and those limitations must be produced and shown to be applicable to the power. But there are no such limitations in this case. I think, therefore, that the power of Congress over the subject of the slave-trade in the District can not be questioned. The truth is, that Congress has put that trade here, as has been shown by the senator from Maryland (Mr. Pratt). It was by an enactment of Congress that this slave-trade stole into the District, and has continued to exist here. And is it possible to maintain that Congress is incompetent to repeal its own laws, or to pass an enactment the effect of which will be to abrogate the effect of those laws? No, sir.

With regard to the question of the abolition of slavery, I repeat, I have always put it upon the ground that, in good faith toward Maryland, we ought not, while the institution exists there, to disturb it within the District. But, in reference to this particular question of introducing slaves for sale in the District, so far from acting in opposition to what was the ancient policy of Maryland, in prohibiting and suppressing it, we act in precise conformity with that policy. Her law, at the time of the cession by her of this District, as has been repeatedly shown, declared that any slave brought within the State should be free. That was the law of Maryland, at the time the District was ceded by that State to the United States.

My honorable friend from Virginia (Mr. Mason), and another senator, I believe, yesterday spoke of the embarrassment which they felt in determining whether to vote for the bill abolishing the slave-trade in the District, or for the amendment offered by the senator from New York (Mr. Seward) abolishing slavery in the District. Why, what is the difference between them? The proposition offered by the senator from New York (Mr. Seward) has for its object the entire and immediate abolition of slavery within the District of Columbia. The bill which was reported by the committee of thirteen does not touch slavery within the limits of the District of Columbia. It does not deal with it at all. It deals with a different subject. The bill reported by the committee declares by enactment that it would be a violation of law to introduce a slave here to be sold here. Well, what is the provision? Why, that if a slave, in contempt of the legislative authority, is introduced here, what shall be done?

That that shall be done which was done formerly in both Virginia and Maryland; that the slave shall be free in consequence of his illegal introduction. Gentlemen choose to regard this as a species of emancipation; but it is no such thing; it is a penalty inflicted upon the owner of the property for violating the law of the land, and introducing a slave here in contravention of the express enactment of the law. It is not only a penalty, but this is preferred to other penal forms because it is more suitable, because it is more appropriate, because it is more effectual in preventing that slave-trade which it is the object of the bill before the Senate to interdict. And it is in conformity with the experience of the two adjoining States, when they had provisions in their respective laws on the subject. I care not whether, as was said by the senator from Virginia (Mr. Mason), the object of those laws was to prevent the augmentation of a particular race, or what was the object. But the law of Virginia and of Maryland was, that any slave brought into these States should be and was free from the date of his introduction. And we can do the same thing under a power which I contend is equal to that in respect to this District, because it is an exclusive power to legislate in all cases whatsoever; and there can be found no limitation, no restriction upon the power in any part of the Constitution, in reference to the subject before the Senate.

I do hope that the honorable senator from Virginia will confide a little more in his own powers of discrimination. If he would have that confidence in his capacity for discrimination to which that capacity entitles him, and would apply it to the subjects before the Senate—the one a bill for abolishing the foreign slave-trade here, and the other a proposition to abolish slavery here—he would perceive the great difference between the two measures.

Sir, I do not mean at this time to dwell longer on the subject, for I am really desirous that we should hasten to a decision upon it, and dispose of it according to the sense of the majority of the Senate. What has been incorporated into the bill at the instance and the motion of the senator from Maryland (Mr. Pearce), will come in review before the Senate when the bill shall have been reported from the committee of the whole. It can then be disposed of according to the pleasure of the Senate.

On the 12th of September Mr. Clay said:

I rise to express the hope that the Senate will not concur with the Senate acting in *quasi* committee on these amendments, and that they will leave the bill in the state in which it was originally reported. I have just heard, with very great pleasure, of the passage in the other House of one of these measures (the fugitive slave bill), the combined effect of the whole of which it was hoped, and I believe, will restore in a great degree the concord and harmony of the country. This is the only one remaining of those measures, and its object was known, too, throughout the session as being simply to abolish the slave-trade in this District; a trade consisting of the traffic in slaves not belonging to the District, but brought here. If

the amendments which were inserted in the committee of the whole be adopted in the Senate, I apprehend that the effect will be that we shall pass no bill at all. I apprehend that the effect will be that we shall neither suppress the slave-trade in the District, nor provide those additional laws which are supposed to be necessary to prevent the enticement away of the slaves, or the increase of free people of color in this District. And this result, I apprehend, though I hope I shall be mistaken, will be the consequence of those gentlemen who are opposed to the interdiction of the slave-trade concurring in the vote with those gentlemen who are opposed to the other provisions of the bill; whereas, if the two measures were separately introduced, I have no sort of doubt but they would both pass. For the proposition, the object of which is to prevent the enticement away of slaves and to regulate the condition of free persons of color, there would be an undivided southern vote, together with some few northern votes; and for the bill to suppress the slave-trade we shall have, I believe, the undivided northern vote, with some eight or ten votes from the South. The separation of the measures, therefore, will lead to the success of both measures, if introduced in separate bills; while, if they be combined together, the effect will be to lose both, to lose all. That being the state of the case, I trust all those senators who are desirous of interdicting the slave-trade in the District, will vote against concurring with the Senate in *quasi* committee in the amendments proposed.

Mr. President, it has been frequently said, in the course of the debate on this bill, that slavery will itself pass away in the District. So it will, sir; and I am very glad of it. With regard to the slave-trade also, it is said to be less active than it was formerly, and I think that is also the fact. But when we go a hundred miles from this place to the North, the enormity of the slave-trade here is the leading theme of conversation. I have heard many northern gentlemen say that the idea of the existence of such a trade within the District was more calculated to agitate and excite, and produce those feelings which we are all desirous of allaying at once, than almost any other subject connected with these agitating questions. I hope, therefore, that we may limit ourselves to the object to which our attention has been directed throughout the session, and that we shall not introduce here new matters which have already given rise to protacted debate, and which may give rise to still further debates. With regard to making further provision to prevent the introduction of free people of color into this District, and further provision also for the enforcement of the laws of the District against the enticement away of slaves, the principle in both cases I am perfectly satisfied with, but I object to the introduction of provisions with these objects into this bill, when the effect will be to prevent the passage of any law on either of these subjects.

The further consideration of the subject was then postponed till Friday. On that day, however, in consequence of the death of Mr. Nes, the bill was not taken up.

On the 14th of September, MR. CLAY said as follows:

There are gentlemen who will vote for the first two sections alone without the amendments; and there are gentlemen who will vote against the first two sections with the amendments. And there are enough in the Senate—though of course it is a matter of conjecture and of opinion—to defeat them if we combine them together. And yet this combination is perseveringly insisted upon, when we declare our willingness to take up the subject separately, and provide suitable remedies for the evils now existing here.

Sir, what is the state of the case in relation to the slave-trade in this District? There have been thousands and tens of thousands of petitions presented for twenty years or more from all parts of the northern portion of the Union at least, and some I believe from the District itself, praying for the abolition of this trade. A bill has been introduced for that purpose, and the subject has been under consideration for eight months. But all at once, without a solitary petition from the people of the District in regard to the matter, a senator gets up and proposes two or three amendments to this bill, and insists upon them, although the people here have lived fifty years without any particular legislation in regard to the subject-matter of these amendments. All we ask is that you will not encumber a considered subject, a subject upon which we have deliberated and formed our opinions, with an unconsidered subject, crudely presented to us, and with respect to which there ought to be careful consideration, both as to the object and the phraseology to accomplish the object. Will gentlemen insist, under such circumstances, upon this combination of the subjects? The bill will be lost, I believe, in this House or in the other, if you combine the two subjects. I repeat that I believe both objects can be attained if kept separate. The interest of the people of the District will not suffer, I apprehend, from a delay of two months, until the next session, when a bill can be brought in in relation to this other matter.

The gentleman from Maryland speaks of the amendments. Either the honorable senator or myself totally misunderstands the third section. He thinks the actual running away with a slave is to constitute the crime. That is not the way I read it. As I understand it, the mere enticing or inducing a slave to run away, whether he runs away or not, is liable to the punishment which is provided. That is a subject which will require much deliberation. The legislation of my own State, and I venture to say the legislation of every slave State, has graduated the punishment of these offenses according to their nature. Such punishments, particularly when they are not unreasonable, are capable of being carried into effect. But here it is proposed to make the mere conception of a crime liable to the same penalties as the consummation of it. And then as to the punishment proposed to be inflicted. I should protest against the power being lodged in the breast of any judge to inflict ten years' or even two years' imprisonment upon any human being. I should insist upon a trial by jury, with

punishment graduated according to the opinion of the jury. But are we now, at this late period of the session, to attach amendments on a subject which has not been considered, to a bill that has been deliberately considered by the Senate and by the country? I trust not. I am sure there were many senators who voted for the amendments in committee without due consideration. And I think my honorable friend from Maryland should be satisfied with the avowal of a purpose to redress grievances when we can properly consider them. I have no doubt that the senator from Ohio (Mr. Ewing), or any other senator, if you make out a fair case before him of a person endeavoring to decoy a slave from his owner, and the crime is perpetrated, would consent to inflict some proper punishment, adapted to the true nature of the offense and calculated to prevent its repetition. These are subjects upon which we should have time to deliberate. But we have no time now, nor is there any urgent necessity for this legislation now, when the people of the District have been living without it for fifty years.

Sir, my colleague (Mr. Underwood), spoke of his apprehension that this series of measures would not produce that healing effect which their authors and advocates have supposed they were calculated to effect. Why, who ever expected that the instant after the passage of these measures the whole country would at once become quiet and acquiescent? There must be a little time allowed. It was said during the progress of these measures, and I now repeat it, that there might be a few of the ultra abolitionists who will continue to agitate. Gentlemen, after they have been defeated, after they have been opposing projects which they thought wrong and have been defeated, naturally show some signs of dissatisfaction. That there should be motions to abolish slavery in the District of Columbia; that there should be such a bill as is proposed to be introduced by the senator from New York (Mr. Seward), all is natural. It is human nature. The disappointed party are always mortified, vexed, and irritated; and the successful party should bear with a great deal. But the people of the country at large, the people of the United States, are satisfied with this series of measures. And I venture to say that, although here and there a voice may be raised to excite and to agitate, the great mass of the people everywhere rejoice and are glad that these questions have been settled. And I believe they were rather indifferent as to the precise mode of effecting the object.

This is the last of the series. And I venture to say that if this bill is defeated by this attempt to attach unnecessary amendments—and without which the District can remain for two months as they have for the last fifty years—you will have as much agitation upon this particular subject at the North as perhaps you have already had upon all the other aspects of this slavery question. I am therefore desirous of seeing the bill passed without any of these amendments.

A word or two now with regard to what was said by my friend from Tennessee (Mr. Bell) about the penalty of emancipation which this bill

affixes to the bringing of a slave here for the purpose of selling him. There is no attempt to touch slaves within the District. Nor is there any attempt to emancipate any one. It is merely a penalty to be inflicted upon a man living out of the District who brings a slave within the District contrary to the law forbidding him to be brought here. That is all. It is not intended as emancipation, but as a penalty. If emancipation follows, it is a consequence, and not the object and principal design of legislation in the enactment. It is according to the laws which existed in Delaware, Maryland, Virginia, and other slaveholding States. And it is not to be regarded as exercising any general principle of emancipation, but inflicting upon a man a penalty for violating the known law of the land. I wish to have the yeas and nays on concurring in the amendments made in committee. I do earnestly hope that this debate may terminate, so that we may come to a vote.

ON THE TWO PER CENT. FUND IN MISSOURI.

IN SENATE, FEBRUARY 6 & 14, 1851.

[MR. BENTON had asked leave of the Senate to bring in a bill to pay the State of Missouri what he claimed was due to her out of the net proceeds of the public lands; but Mr. Clay maintained that nothing was due to Missouri on that account, and that the indebtedness was on the other side, from Missouri to the United States. We shall present Mr. Clay's argument on this question in one speech, although made on two separate days, by adjournment of the Senate and the claims of other business. On the 6th of February, 1851, he spoke on this subject as follows:]

MR. PRESIDENT:

When this bill was called up some days ago, I said to the Senate that instead of Missouri being the creditor of the general government on account of the two per cent. fund referred to in this bill, it would be seen upon an examination of the whole subject that she was largely the debtor of the general government. In rising now, my purpose is, as far as I can, to make good that statement; and I think upon the exposition which I shall present, it will be seen that every cent of the two per cent. fund reserved in the compact between Missouri and the general government has been expended, and a great deal more; that it was expended with the silent acquiescence at least of the State of Missouri, and with the positive votes of her senators and representatives during the passage of the various bills to which I shall have occasion to refer; that it was expended in the construction and continuation of the Cumberland road from Cumberland, in Maryland, to Vandalia, in Illinois; that it stopped in consequence of a collision which arose between the States of Missouri and Illinois, or rather, I believe, between the towns of St. Louis and Alton, as to what should be the terminus of the road.

It will be seen in this exposition that between seven and eight hundred miles of the Cumberland road have been actually constructed, at a cost of nearly six millions of dollars, and constructed upon a pledge of reimbursement to the government of the United States of the amount expended from the two per cent. fund, derivable first from Ohio, then from Indiana, then

from Illinois, and then from Missouri. It will be seen that the general government is out of pocket to the amount of $4,500,000, and instead of being reimbursed the $5,800,000, she has only been reimbursed to the extent of about $1,230,000, or $1,300,000. This will be shown in the progress of what I have to say, and will be seen from the laws to which I shall call the attention of the Senate.

Mr. President, I beg leave to say, by way of apology—for, as you perceive, I have but rarely interfered in public business, and wish to do so as little as possible, except when impelled by a profound sense of duty—that I have had something to do with this road in former years. I contributed in some degree, as far as my humble capacity would allow, to the passage of laws which, session after session, for a period of years, were greatly contested in the other branch of the national Legislature, to make appropriations to construct and continue this road; and in those laws, as I shall presently have occasion to show, pledges were made of reimbursement to the general government of the amount to be expended out of the two per cent. fund, a portion of which is now demanded of right by Missouri, as if no part of it had been expended for her use or in conformity with the compact made with her. Having contributed in this way to the passage of those appropriations, and having proposed the pledge to which I have referred, I feel myself called upon by a sense of honor, for the part I have taken on this subject when it was before the other branch of the national Legislature many years ago, to show that the government of the United States is under no obligations to any one of the four States I have mentioned—Ohio, Indiana, Illinois, or Missouri—to pay one single cent of the two per cent. fund. It will be of some consequence to call the attention of the Senate, in the first place, to the compact between the State of Missouri and the general government, out of which this claim originates. It will be found in the third volume of the laws, page 547. The third condition of that compact, which I will read from the sixth section of the act to authorize the people of Missouri Territory to form a Constitution and State government, is as follows:

"That five per cent. of the net proceeds of the sale of lands lying within the said Territory or State, and which shall be sold by Congress, from and after the 1st day of January next, after deducting all expenses incident to the same, shall be reserved for making public roads and canals, of which three fifths shall be applied to those objects within the State, under the direction of the Legislature thereof, and the other two fifths in defraying, under the direction of Congress, the expenses to be incurred in making of a road or roads, canal or canals, leading to the said State."

By this condition it will be observed a reservation was made of five per cent. of the net proceeds of the sales of public lands in Missouri; three per cent. to be expended within the State, and two per cent. to be expended without it. With respect to the three per cent. to be expended within

the State, it has been paid from time to time to Missouri, and no claim is attempted to be set up on that account. The claim is altogether for the two per cent. fund, which was to be expended under the direction of Congress in making of roads or canals leading to Missouri. The Senate will also observe that no specific kind of road is provided for. It is not provided that it shall be a railroad, a macadamized road, or any other particular kind of road; it was to be a road. The money was to be expended under the direction of Congress, and Congress was to be the judge of the species of road and the expenditure of money for it.

It will be observed, moreover, that it was not Missouri alone that was interested in this expenditure. The two per cent. fund was also to be expended exterior to her limits. She would derive benefit undoubtedly, but the expenditure was to be made outside of her limits in other States, and other States directly, as well as the Union at large indirectly, were to be benefited by the construction of the roads.

I have stated that the whole amount of this fund had been expended specifically upon the Cumberland road. That road beginning at Cumberland, in the State of Maryland, was intended to be run to the Mississippi on its eastern bank. The road has been macadamized only in part. It has been macadamized only from Cumberland to Wheeling, and from Wheeling through the State of Ohio entirely, partly in Indiana, but inconsiderably, and partly in Illinois, less considerably than in Indiana. But it has been graded, and bridged, and cleared, and opened the entire extent of between seven hundred and eight hundred miles from Cumberland, in Maryland, to Vandalia in Illinois. It would have gone on and been graded and opened to the Mississippi but for the conflict which arose with respect to its terminus on the Mississippi; Illinois being desirous that it should terminate at Alton, while Missouri was desirous that it should terminate at a point opposite St. Louis. The Cumberland road originated in March, 1806. It was to be constructed from the two per cent. fund reserved in the compact between Ohio and the general government. When it was originally projected it was contemplated only to extend to the Ohio river, but when it reached the Ohio river, owing to the very great exertions made in the other branch of the national Legislature, it was carried across that river through the State of Ohio to the point I have mentioned in the State of Illinois.

Sir, the benefits of that road have been incalculably great. I know it from personal experience. Why, before that road was run, I remember it took my family one entire day to pass from Uniontown to Freeman's tavern, on the summit of Laurel Hill, a distance of only about seven miles. I wish the senator from Pennsylvania (Mr. Sturgeon) was present, as he would recollect the place. The distance from Uniontown to Cumberland is about sixty-four miles, and that distance is now passed in about ten or twelve hours. The whole western country has been benefited by that road, in all its parts—benefited in the emigration to the new States west, bene-

fited in the traveling to and from those States to the seat of government and the cities of the seaboard. It has almost created a new country as respects intercourse between the western and eastern States. It has diminished in its importance recently in consequence of the opening of other channels of communication—the road in Pennsylvania from Pittsburg to Philadelphia, and the roads around the lakes through the State of Ohio and the State of New York. Still it is yet a road of incalculable benefit to all who are emigrating in that direction to the West, and to all who are traveling.

The extension of the road beyond Wheeling, the original terminus intended for it, took place about the year 1820, about the year when Missouri was admitted into the Union. It was carried through the States I have mentioned. But I should here pause, and say that when it reached Wheeling—or, in other words, when it reached the State of Ohio, for Wheeling is directly opposite to the State of Ohio, and is separated from it only by the Ohio river—every obligation toward the State of Ohio resulting from the expenditure of the two per cent. fund was completely fulfilled; we were not bound to expend another dollar for the State of Ohio. But then the States beyond Ohio—Indiana, Illinois, and Missouri—having the same two per cent. fund pledged in the respective articles of compact which were entered into between the government and those States, had a right to ask the continuance of the road through Ohio first, then through Indiana, then through Illinois. Now, I wish to call the attention of the Senate to the acts of appropriation which have been from time to time made to expend this fund. The first will be found in the fourth volume of the Statutes at Large, page 128. By that act, which was "an act for the continuation of the Cumberland road," it was provided:

"That the sum of one hundred and fifty thousand dollars, of moneys not otherwise appropriated, be and the same is hereby appropriated for the purpose of opening and making a road from the town of Canton, in the State of Ohio, on the right bank of the Ohio river, opposite the town of Wheeling, to the Muskingum river, at Zanesville, in said State; which said sum of one hundred and fifty thousand dollars shall be replaced out of the fund reserved for laying out and making roads, under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, Illinois, and Missouri into the Union on an equal footing with the original States."

I believe that was the first act in which the two per cent. fund reserved from Missouri was by express enactment pledged to the reimbursement of the general government in making that road. In pursuing its passage through the Senate, I find that a motion was made by Mr. Holmes of Maine, to strike out the words "Illinois and Missouri" in the extract which I have read, the effect of which would have been, not to pledge the two per cent. fund belonging to Missouri and Illinois, but to have left it unpledged. The retention of the words amounts to a retention of the pledge of reimburse-

ment out of that fund. On this motion of Mr. Holmes, of Maine, the vote stood twelve for striking out the words Illinois and Missouri, and thirty-three against it; and among the thirty-three who voted against it, who voted for making the pledge proposed, I find both of the then senators from Missouri. They both voted in the negative, thus positively expressing their consent to the pledge of the two per cent. fund for the reimbursement of the general government. I do not mean to follow out all the various acts of appropriation. There will be found, however, in others of them to which I shall call the attention of the Senate, the same reservation of the right of reimbursement. An act was passed providing for the construction of the road west of Zanesville, in March, 1829, which provided:

"That the sum of one hundred thousand dollars, of any money not otherwise appropriated, be and the same is hereby appropriated, for the purpose of opening and making the Cumberland road, westwardly from Zanesville, in the State of Ohio; which said sum of one hundred thousand dollars shall be replaced out of the fund reserved for laying out and making roads, under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, Illinois, and Missouri into the Union on an equal footing with the original States."

In the fifth volume of the Statutes at Large, page 71, we find "an act for the continuation of the Cumberland road in the States of Ohio, Indiana, and Illinois," by which it is provided:

"That the sum of two hundred thousand dollars be and the same is hereby appropriated, for the purpose of continuing the Cumberland road in the State of Ohio; that the sum of two hundred and fifty thousand dollars be and the same is hereby appropriated, for continuing the Cumberland road to the State of Indiana, including materials for erecting a bridge across the Wabash river; and that the sum of one hundred and fifty thousand dollars be and the same is hereby appropriated, for continuing the Cumberland road in the State of Illinois; which sums shall be paid out of any money not otherwise appropriated, and replaced out of the fund reserved for laying out and making roads, under the direction of Congress, by the several acts passed for the admission of the States of Ohio, Indiana, Illinois, and Missouri into the Union on an equal footing with the original States."

Here, again, we find the fund specifically pledged. By another act, which I will not take up the time of the Senate by reading, four hundred and fifty thousand dollars, one hundred and fifty thousand in each of the three States, were appropriated to the same object, and the two per cent. fund was pledged to the reimbursement of this amount. The amount to be appropriated by this bill is, I presume, about $230,000. I think that an official document on our files will show that $200,000 was the amount of the two per cent. fund, arising out of the sales of the public lands in Missouri a short time ago. It has probably increased since that time to about $230,000. This bill proposes an immediate appropriation of the whole of

that sum, and a prospective appropriation of all the sums that shall hereafter accrue within the State of Missouri in consequence of that reserved two per cent. fund. Now the Senate will find, from the appropriations to which I have called their attention, that vastly more than $230,000 has been expended, without making Missouri at all chargeable for any part of the road outside the State of Illinois.

The deficit of reimbursement for the construction of the whole road from Cumberland to Vandalia is about four millions and a half, and if Missouri is liable for her portion of that four millions and a half, it would be perhaps twenty or thirty times the amount of $230,000. But admit that she is not liable for any thing expended in Ohio, for any thing expended in Indiana, and that her liability begins when the road reaches Illinois. Upon reaching Illinois, Illinois had no right to ask of us to expend one dollar, and it was only on account of the reserved fund to Missouri that we could be called upon to make any expenditure of money within the limits of Illinois. Then if you charge to Missouri only what has been expended within the limits of Illinois, it will exceed three or four times the amount claimed in her behalf by the bill under consideration. I am aware that the road has not actually terminated at the line of Missouri. The government was to begin the road somewhere, and the compact did not require that the government should begin the road at any particular place. I contend that the literal interpretation which would require of you to carry the road up to the very line of the State of Missouri is not the true and just interpretation of the act. The question is, whether Missouri has or has not derived benefit from the construction of the road. As I have already stated, every western State has derived benefit, especially those States through which it passes and to which it runs. The general government had discretion on the subject; they had a right to begin the road where they thought proper. Suppose they began the line at Missouri, there might then have been a gap from Vandalia to Indiana, about equal in extent to that which is now complained of between Vandalia and Missouri.

But this law invested Congress with discretionary power, and that power, as I contend, has been faithfully exercised by Congress. If the road was not carried to the Missouri line, there were various reasons for it. One was the exhaustion of the fund. The fund may hereafter accumulate, if unappropriated, perhaps to an amount sufficient to carry the road to the line of Missouri. No time is fixed in the compact as to where the road shall be run; the road is to be carried *pari passu* with the increase of the fund. The fund will go on increasing until the whole of the public lands in Missouri shall have been sold; and it is possible if it be not squandered and wasted away, that it may hereafter be sufficient to complete the road.

With respect to the road itself, after it reached Illinois it was found impossible to gravel or to stone it. There was proof before this body, I recollect, some fourteen years ago, when I was a member, that stone for the purpose of grading had been carried thirteen miles. There was no stone

or gravel to be found within the limits of that State convenient to the site of the road to make it as it was made in Ohio and part of Indiana. And according to the last appropriations made for carrying the road through Illinois it was especially provided that the money should not be applied to paving with stone or graveling the road. This was because of the enormous expenses which would be otherwise occasioned by transporting the stone and gravel. The opening of the road was all the government stipulated. There was nothing that required the road to be macadamized. In point of fact there is a road now existing from Vandalia to Alton and to St. Louis and the Missouri line. It is a road made under the authority of the State of Illinois, but it makes continuous the line from Cumberland to the Mississippi river. At this end of the line from Cumberland to the seat of government, to Baltimore, and to the eastern cities, roads were made not by public authority or public means, but by private corporations and individuals, so that at both ends of the road there are about one hundred and fifty or two hundred miles executed by the enterprise of individuals, and not at the expense either of the general government or any State government. The whole extent of the road as far as it goes—eight hundred miles—is beneficial not merely to Missouri, but to all that group of States through which it passes, and to those States emigration to which will be promoted by this means of traveling.

I think I have shown, first, that the general government was not bound to make any particular or specific kind of road; secondly, that it was not limited as to the time when the road should be constructed; thirdly, exercising the discretion expressly vested in it by the compact between Missouri and the general government, the general government expended not merely $230,000, but probably more than three times that amount, even admitting Missouri not to be chargeable for any thing expended on the road prior to its reaching Illinois.

One word now with respect to the document which my friend from Illinois presented. I am quite sure, and I think I may venture the belief, that the committee did not attend to these special appropriations, and these express declarations in repeated acts, that the two per cent. fund arising from the sales of public lands in Missouri was pledged to the reimbursement of the general government for its expenditures on this road. My friend has presented a document from the General Land Office, showing that eight out of the twelve land States have received the whole of the two per cent. fund, and that four have not received it. Why have those four States not received it? Ohio did not receive it because it was pledged to the reimbursement of the government for the expenditure it incurred on the Cumberland road. Indiana did not receive it for the same reason. I venture to say in regard to the eight States which are said to have received the entire five per centum, three per cent. to be expended within the limits of the State, and two per cent. to be expended without the limits of the State, that in none of them was any road commenced under the

authority of the general government leading to those States, and pledging the two per cent. fund reserved for those States as a fund for the reimbursement of the general government.

On looking a little into this subject of roads, I find an appropriation of $20,000 for opening a road from Dubuque, in Iowa, to the northern boundary of the State of Missouri. There is no pledge of the fund in that instance, but certainly, admitting a claim on the part of Missouri, it would be an equitable offset, for the compact does not say that a road shall be run in any particular quarter. I find that an act was passed in 1839 authorizing the construction of a road from Dubuque to the northern boundary of Missouri, by which it is provided:

"That the sum of $20,000 be, and the same is hereby, appropriated, out of any money not otherwise appropriated, to the opening and construction of a road in the Territory of Iowa, from Dubuque, on the river Mississippi, to such point in the northern boundary of the State of Missouri as may be best suited for its future extension by that State to the cities of Jefferson and St. Louis, within the same."

Mr. President, if I am right in the views which I have presented to the Senate, it follows that this bill ought not to pass; and even if it were to pass I should be glad to know whence we derive the authority to make the new compact which is proposed in the bill with the State of Missouri. If the money belongs to her we ought to pay it to her and let her dispose of it as she pleases. But here we find it is proposed that the Legislature of that State shall first pass an act declaring their acceptance of the money. There is also a provision, which is to be unalterable without the consent of Congress, that the whole of this fund shall be faithfully applied, under the direction of Missouri, to the two railroads heretofore chartered by the General Assembly of that State—the Pacific and Mississippi railroad, and the railroad from Hannibal to St. Joseph, in that State. What right have we to make any such compact?

The honorable senator from Missouri [Mr. Benton], it is known, has very much at heart a great national project. It is worthy of his highest consideration and of his best efforts. It is the making of a railroad from St. Louis to the Pacific ocean. I hope it may turn out that St. Louis is a proper point of terminus for such a road. But until explorations and surveys, and estimates are made of all the proposed routes—for there is one proposed north of St. Louis, and two at least south of it—I think it would be very incautious and improper on the part of Congress to commit itself to any one particular route. Let us ascertain which it will be the most advantageous to adopt; let us know the expenses, the obstructions, the difficulties to be surmounted in the construction of the various routes before we do any thing. I shall be extremely happy if it shall turn out that of all the various routes proposed, the one which is contemplated to begin at St. Louis is the best; but I can not, upon the information which I now

possess, satisfy my mind upon this point, and therefore I do not wish to pledge myself to any particular route. I understand this new compact which it is proposed to make with the State of Missouri has for its object the extension of a railroad from St. Louis to the western limits of that State, being a part or section of that road, the construction of which the senator from Missouri has so much at heart.

In conclusion, sir, allow me to say that this appropriation of the two per cent. fund, arising from the sales of the public lands in Missouri, has been made from year to year for about thirty years, during which the honorable senator [Mr. Benton] has had a seat on this floor. All those provisions pledging the two per cent. fund of Missouri to the reimbursement of the general government have been made while the honorable senator has been a member of this body. Not one word of remonstrance, not one word of complaint has been heard on the part of Missouri or on the part of her representatives on either floor of Congress. On the contrary, we find them acquiescing, and consenting, and agreeing to the pledges. And now, after all the money has been expended by the general government for the benefit of that State and of other States, we are asked to give the State of Missouri $230,000. I think there is no foundation whatever in justice for the demand.

[After hearing Mr. Benton's reply, Mr Clay rejoined as follows:]

I will detain the Senate but a very little time. The argument of the senator from Missouri has not controverted several positions which I assumed as existing, and which I think must be conclusive on this question. He has not denied that there is not a single cent of the two per cent. fund in the Treasury of the United States. He has not denied that the whole has not been expended on the Cumberland road. He has not denied that it was expended under the express provisions in the several acts declaring that the reimbursements of the general government should be made out of that two per cent. fund. He has not denied that the State of Missouri, during the progress of these various acts, never intervened to protest against an appropriation of the money to advance the road. He has brought forward a memorial of the General Assembly of Missouri, sent here in 1829, in which they do not complain of the pledge of the fund, they do not complain at all that the two per cent. fund had been appropriated to extend the road, but they complain that the work upon the road was not carried on with the rapidity which they desired; they wanted to see it extended more rapidly than it had been.

With respect to the recent recommendation of the governor to relinquish to the United States all the obligations on their part to continue the road, it is a very late affair, and has grown up under the idea that there is in the treasury some two or three hundred thousand dollars belonging to Missouri; every cent of which has been expended without the interposition

of Missouri, and with the express assent of the representatives of Missouri in both Houses of Congress.

Sir, it is said that I have been incorrect with respect to the date of the act for establishing the Cumberland road, and a reference has been made to the various propositions between the State of Ohio and the general government, as to the terms of the contract which the parties were mutually about to enter into. I have the act before me, but it is not worth while to trouble the Senate with reading it now. The proposition contained in the offer from Ohio, and the counter proposition on the part of the general government, did not relate to any specific kind of road, not to the Cumberland road; but they spoke of roads generally. And I repeat, that according to all chronology, I am correct in asserting that the act of March, 1806, was, as I have before said, the very first act passed to make a road from Cumberland to the Ohio river. Here is the act which requires that commissioners shall be appointed who were to lay out the road under the direction of the President of the United States, and to be allowed their per diem for it. And the latter part of the act pledges the fund which was to arise from the two per cent. for the reimbursement of the general government.

Now, it is very true that in the original terms of the compact between Ohio and the general government, the stipulation with respect to the application of the five per cent. was, that it was to be applied to make roads to and through the State; the words "through the State" have been rejected in every other instance, and even before the Cumberland road reached Wheeling the two per cent. fund reserved in the compact with Ohio had been expended. So that what I stated before with regard to this subject is perfectly true; that Ohio had no claim upon the general government, arising out of that two per cent. fund to go one step beyond the Ohio river or beyond Wheeling.

The senator says, that according to the stipulation between Missouri and the general government, the road was to terminate at the line of the State of Missouri. Now, sir, there are some half dozen answers to that argument of the senator. The first is, that it is too literal. A road leading to it or near it substantially complies with the stipulations contained in the compact. The benefits of the road, to the extent to which it reaches or approaches the State of Missouri, are enjoyed by that State. But, sir, besides, without disputing about the mere verbal criticism, there are other answers to his argument. One is that it has not gone to the Mississippi river, because the fund was exhausted when it reached Vandalia. There was no longer any means for prosecuting the road, arising from the two per cent. fund, beyond Vandalia. The government was only bound to the whole of the two per cent. fund, and, as I said before, it was not bound to begin the road at Missouri, or make it from Missouri, but a road to lead to Missouri.

Under this compact a road has been begun, and carried into the State

of Illinois, without any right on the part of the State of Illinois to demand that it should be carried through the State in consequence of any compact with Missouri. Even before the road reaches Vandalia the two per cent. fund received upon the sale of the public lands in Missouri is exhausted, and more than three times exhausted. What right has she when the fund is exhausted to demand that the road shall continue beyond Vandalia?

But there are other answers to the arguments of the senator from Missouri, and one of them is, that the road could never have been carried to the line of Missouri. The Mississippi river intervenes so that it could only be carried to the bank of the Mississippi river within the State of Illinois. It can never be carried to the State, if that word "to" is to receive its literal signification, and if, according to it, we were bound to make a road to the very line of Missouri.

But there are still other answers to the arguments of the senator from Missouri. Another answer is, that there is a road actually in existence from Vandalia to the banks of the Mississippi, opposite to St. Louis, and another from Vandalia to Alton, opposite to Missouri. She has the benefit of these roads. Would you make another road? Government was not bound to make a macadamized road; any dirt road would answer the compact.

But another answer is that it has been only about ten or twelve years since the appropriation ceased, and ceased for the reason, among others, that the fund was exhausted. Government did advance upon the road from Cumberland to Vandalia more than four millions of dollars. The reimbursements of all four States have not amounted to one fourth part of the expenses of the government upon the road from Cumberland to Vandalia.

Well, sir, another answer to the arguments given is, that if Missouri, or the senator from Missouri, will wait until there is an accumulation from the sales of the land in Missouri to make another road they may have another road, if they insist upon it, upon the top of the one they have already. They ought to be willing to wait until the fund can be accumulated from the sales of the public lands in Missouri. The whole amount which is said to be in the treasury now, due to Missouri, is about two hundred and thirty thousand dollars, if the title of the bill is correct in point of fact. It is "a bill to make good to the State of Missouri the two per centum of the proceeds of the sales of the public lands heretofore withheld from that State."

It assumes that the money is in the treasury; it assumes that we have withheld it from Missouri; it assumes that there are no pledges, no obligations, no appropriations, no disbursements of money for the benefit of Missouri. Every cent of it, and more than three times every cent of it, has been disbursed. Let the fund accumulate, let further sales take place, let there be money in the public Treasury of the United States from the

sales of public lands in Missouri, and she may call upon the government of the United States to apply it under the compact.

But again: the most that Missouri has a right to demand is, even supposing I am wrong in all the views I have yet presented, that government should make a graded road from Vandalia to St. Louis. What would that cost? I suppose the expense might be about $500 per mile. The distance is about one hundred miles. The whole expense therefore would be about $50,000 dollars. While the whole expense would be only $50,000, a demand is made for $230,000, which has already accrued, it is said, and which is assumed to be already in the treasury; and then there is a demand on the general government for all that may hereafter accrue. Sir, I think the case is fully in the possession of the Senate, and, according to any reasoning which I can apply to the subject, it seems to me there is no just foundation whatever for the demand on the part of Missouri, and, entertaining that opinion, I thought it my duty to make the exposition which I have, and leave it for the Senate to take such action as they may deem proper.

[February 14, the bill being again before the Senate, Mr. Clay concluded his remarks upon the subject, in reply to a speech from Mr. Benton.]

Mr. President, I took no part in the preliminary proceedings this morning, either to express any sentiment or to vote, because, on the one hand, I did not desire to deny to the senator from Missouri the benefit of a new trial for his bill, nor on the other hand did I wish to seem to be anxious to violate an established principle and usage of parliamentary law. The Senate has thought proper to give to the senator from Missouri the privilege of an exposition of the motives which led him to ask leave to introduce the bill again, and at the same time to accord to any other senator the privilege of reply. I wish to avail myself for a few moments of the privilege which has thus been extended to me.

I do not propose to go at large into the long and elaborate argument of the senator from Missouri; but I beg leave, in the first place, to correct him in a matter of fact, and I think the correction will show to the senator the propriety of more caution on his part in the assertion of facts. The senator stated that the speech recently made by me in opposition to this bill, and published in the papers in this city, was revised by me. That is not the fact. I never saw it from the time it was delivered until I read it in the morning papers, when it first appeared. I very rarely do. I very rarely, even in former years, revised the speeches which I made: perhaps too seldom for the poor reputation which I may have in the country. With respect to the speech which the senator quotes as having been made by me in 1825, I am unable to assert whether I did or did not revise it.

In making these explanations I wish it to be distinctly understood that I do not mean to shelter myself, by the fact of not having revised my last speech, against any supposed opposition of opinions which the senator has

endeavored to deduce from the comparison of the two speeches. I claim no such shrinking privilege. The great dispute between the senator from Missouri and myself is this: A compact was made with various States, pledging, in the instance of Ohio, the two per cent. fund to carry the road to the State, and through it, but in all the other instances pledging the general government to apply the two per cent. fund at its own discretion in roads leading to those States—Indiana, Illinois, and Missouri. The argument of the senator is, that, although the Cumberland road has been extended some seven or eight hundred miles, it has not been carried directly up to the line of Missouri. My argument, on the other hand, was, that the whole two per centum was to be expended under the direction and according to the judgment of Congress, in constructing roads leading to those States, and that Congress was to be the judge of where the road should commence; and that from the terms of the compact it was manifest that it was not intended the road should begin at the State or from the State, but it was to begin somewhere else and lead to the State. I contended that the general government, in the faithful execution of this stipulation, had exhausted the whole two per cent. fund of all the four States, and that the exhaustion took place even before the road reached Vandalia, the seat of government of Illinois. I have contended, therefore, that the general government has honestly endeavored to carry out its contract, and that if it has failed to carry the road to the line of Missouri, it has been not because of an indisposition to fulfill the contract, but because of the exhaustion of the fund out of which the object was to be accomplished.

Now, if the senator from Missouri be right that there is an imperative obligation on the general government to carry the road up to the line of Missouri, what ought to be his proposition? Not to ask to be refunded an exhausted fund, every cent of which has been spent in the prosecution of the object of the compact, but it should be to introduce a bill to compel the general government to extend the road from Vandalia to the eastern bank of the Mississippi. But the senator, instead of asking the execution of the compact by the extension of the road to the line of Missouri, asks—what? Why, that a fund which has been more than three or four times exhausted; a fund that is not in the treasury; a fund which has been expended in the fulfillment of the compact with the knowledge of Missouri, with the concurrence of her delegation in both Houses of Congress, shall be restored to the State.

And now with respect to the terms of the compact. The senator says it is not any road which, in the judgment of Congress, it may be fit to make, that was authorized to be made by the compact. If any senator will take the trouble to read the language of the various stipulations made in the compacts with the several States, he will find that in every one of them the language is that the two per centum is to be applied to the construction of a road leading to the State, without specification as to the character of the road.

The senator has said that it was to extend the Cumberland road. That is not the case. In the first instance, when under the compact with Ohio the Cumberland road was beginning at Cumberland to be extended toward Ohio, it was any road which Congress chose, on account of the mountainous character of the country and other reasons, to have constructed. The character of the road has been altered several times. The road was, of course, to be permanent and durable. But in none of the compacts with Illinois, Indiana, or Missouri, was the character of the road mentioned which the government was to construct out of the two per cent. fund.

The senator says also that the general government was under obligation to carry the road to Jefferson City, the seat of government of Missouri. It is under no such obligation by the compact, for the obligation of the compact terminated upon reaching the line of the State of Missouri, according to the senator. According to my construction of the obligation and duty of Congress, it terminated whenever the fund out of which the object was to be accomplished was exhausted. The senator has looked up an old speech of mine made in 1825, which I have never read since it was made, and has brought that speech into contrast with the one which I made the other day; and he contends that there is an incongruity between them, and that a different interpretation is given to the compact by the two speeches. Now it must be recollected that the speech which was made in 1825 was made before there had been any application of the two per cent. fund, to any considerable extent, if to any extent whatever, of the three States of Indiana, Illinois, and Missouri. I was arguing then that Congress was bound to apply that fund in execution of the compact. I was arguing, against the position contended for by some opponents of the bill, that the compact was fulfilled when the Cumberland road reached the Ohio river. I contended upon that occasion, as I contended the other day, that our obligation to Ohio ceased when the road reached the Ohio river; that the fund out of which the object was to be accomplished was exhausted, and therefore that Ohio had no claims upon us for the extension of the road further; but that Indiana, Illinois, and Missouri had claims upon us to carry the road through Ohio, not for the sake of the benefit of Ohio, although she might incidentally derive benefit from it, but for the sake of the States to which it was to be carried, or toward which it was to lead. I contended then that it was no answer to say that the road was in part made, but that we ought to go on till the fund was expended. And what did I say the other day? I gave four or five answers to the objections made by the senator to the fact that the road had not been carried to the line of Missouri. I said, in the first place, that it was impossible to carry it directly to the line of Missouri because of the intervention of the Mississippi river. The gentleman says that is a case for compromise, but he insists on the literal execution of the compact in other respects. If the senator is to be understood as having given a correct exposition of the compact, no matter what obstacles may present themselves, we are bound to

carry the road to the very line of Missouri. But it was provided that it should stop on the eastern bank of the Mississippi river.

With respect to carrying the road beyond the Mississippi river and up to Jefferson City, the seat of government of Missouri, I ask what part of the compact between Missouri and the general government pledges us to carry the road to that city? There is no State, and there will be none for a long time, west of Missouri, to which, in the execution of a compact, we should carry the road through Missouri as it was carried through Ohio. But without any such exterior western State, a clause was introduced—I was aware of its existence—in the act of 1825, not in the compact, but in the act, for a survey of the road to Jefferson City. If it is to be carried there, it is clearly not within the compact, and it must be carried under the general power, which has been so often asserted, to make internal improvements. Now, what was the argument in 1825? When there was money in the treasury, when money was daily coming in, I said, in answer to those who contended we had fulfilled the compact by terminating the road at the Ohio river, that we should carry the road beyond that in order to fulfill our compacts with the States beyond the Ohio. Among the answers which I gave to the senator the other day, I said that if there was enough of the two per cent. remaining in the treasury to carry the road to Missouri, or as near to it as you could reach with convenience, it ought to be done. Did I not further contend that if Missouri would wait until the fund accumulated to an extent sufficient to authorize the government to make a road from Vandalia to her boundary, then it ought to be done? I never denied that if the fund existed in abundance for the purpose of accomplishing the object, you should carry the road as far as you could—make it approach as near as practicable to the line of the State with which you made the stipulation. But I contended that we had made between seven and eight hundred miles of road from Cumberland to Vandalia, pledging from time to time the two per cent. fund, and more than three times its amount derivable from Missouri. I contend that the general government, in the execution of the compact, had carried the road as far as the money would enable them to do, and if they did not carry it further it was not because of the want of the will, but because of the want of the means to provide for carrying it further.

I contend that between the argument of 1825 and the argument which I offered to the Senate the other day, there is no such incompatibility as the senator tries to make out. I said then that if you could carry the road to Missouri you ought to carry it there, if you had the money with which to do it. I said, in 1825, that the road ought not to stop at the Ohio river in fulfillment of the compact of Ohio, but that it ought to be carried further, to carry out the compact with the States lying west of Ohio. I added, the other day, that the States lying west of Wheeling had derived benefit from that Cumberland road; they derived benefit by traveling, and

they derived all the benefits to which a road can be applied which is constructed for the public use and for the public benefit.

A word now with respect to the practicability of making the road through the State of Illinois. I do not know that there are many senators here who were here in 1836 and 1838. So rapidly do we pass off the stage that a very few years make a great difference in the *dramatis personæ*. But I am sure that if there be any here who were here in '36 and '38, they will recollect that the idea of making a paved road through the State of Illinois was abandoned because of the enormity of the expense of making it, the materials not being at hand, and having to be drawn from such an immense distance. I recollect distinctly, though I have not recently referred to the documents, that upon that occasion it was made known to us that gravel and stone had been hauled thirteen miles in order to place it on the road, and it was seen that a debt of the most enormous magnitude must be contracted, if the road, under such extraordinary expenses, was paved, graveled, or macadamized. Hence Congress only contemplated to make a road that was not macadamized through the State of Illinois.

Mr. President, I fear I am consuming more of the time of the Senate than I ought to on this bill. It comes at last to the question which I have stated. Missouri has had the application of the two per cent. fund to more than three times its amount, even if you limit her liability to that only expended in the State of Illinois, and there is no money out of which she can be paid. That two per centum was positively and expressly pledged to the reimbursement of the expenditure which the general government had made, but that reimbursement has not yet been effected, and, until it is effected, Missouri has no claim upon the government. It was said in the report of the committee that in the case of the eight other States with which similar stipulations had been made by compact at the time of their admission into the Union, those States had the two per centum refunded to them. I answered that the other day. I repeat the answer now. In no one instance of those eight States had there been any expenditure of a single dollar to make a road leading to any one of them; the money, therefore, was in the treasury unapplied, and was surrendered to the several States because it had not been expended. The difference between them and Missouri, Illinois, Indiana, and Ohio—no one of which but Missouri has ventured to ask the payment of the two per cent. fund—is, that in the case of the eight States the fund was unexpended and unexhausted, while in the case of these four States the fund was positively pledged to the reimbursement of the general government. The general government has not yet been reimbursed, and the question is whether without being reimbursed we should pay this fund to any one of those States.

And now a word in relation to the act of 1841, to which the senator referred; and with respect to the stipulation of it with regard to the two per cent. fund of Alabama and Mississippi. It will be recollected that in that case the fund was in the treasury; that it was to have been expended for

the common benefit of the Union and of those States; that it was to have been expended to make roads, not within them, but leading to them. It was a fund, therefore, in the application of which the whole Union, as well as those two States, was interested. When, therefore, there was a proposition made to surrender the fund, the general government had a right to propose the terms on which the surrender should be made, and had a right to say, "If we give up to you this money, if we relinquish the interest we have in the making of roads leading to you, we have a right to stipulate for another mode of applying it, which may produce benefit to the Union at large." Now, how is it with respect to the case as put by the senator from Missouri? Missouri comes here as a creditor claiming that we are her debtor. She demands the money as a matter of right. Here is an inexorable demand, and she demands that her debtor pay her forthwith. I said, the other day, and I repeat now, that if the money be due, if we stand in the relation of a debtor to Missouri, we have no right to enter into a stipulation with our creditor and say how the money we pay our creditor should be applied.

Sir, if it be the pleasure of the Senate to hear more on this subject; if it be their judgment as to propriety to suffer a bill again to be introduced which was decided after fair and full argument by a majority of almost two to one I believe; if it be the desire of the Senate that of the fourteen remaining working days of the session we should devote another to the discussion of the bill, leave being granted to introduce it, and it being assigned for debate on another day; if we think we can devote another one of those fourteen precious days to the subject, and if there is a prospect also of the House of Representatives being so little burdened with business that they can, under the operation of the two thirds rule, take up this bill and pass it, then leave to introduce the bill should be granted, and a day set aside for its consideration and discussion.

[The question was then put on granting leave to Mr. Benton to introduce his bill, and was negatived by a vote of thirty-one to thirteen.]

ON VIOLATIONS OF THE FUGITIVE SLAVE LAW.

IN SENATE, FEBRUARY 21 & 24, 1851.

[A MESSAGE was received from the President of the United States, the opening of which is as follows:

EXECUTIVE DEPARTMENT, *February* 19, 1851.

To the Senate of the United States:

I have received the resolution of the Senate of the 18th instant, requesting me to lay before that body, if not incompatible with the public interest, any information I may possess in regard to an alledged recent case of a forcible resistance to the execution of the laws of the United States in the city of Boston, and to communicate to the Senate, under the above conditions, what means I have adopted to meet the occurrence; and whether, in my opinion, any additional legislation is necessary to meet the exigency of the case, and to more vigorously execute existing laws.

The president, in a message of considerable length, replied in detail to the points made in the communication from the Senate, after the reading of which, Mr. Clay spoke as follows.]

I HAVE listened with great satisfaction to the reading of this message of the president. Its general tone and firm resolution announce that he will carry into effect the execution of the laws of the United States. It ought to be, and I trust will be, satisfactory to every impartial and candid man in the whole community. There is only one regret, if I were to express any, that I feel. I think the marshal of Massachusetts ought to be dismissed, and I have very little doubt, although not authorized to say any thing upon the subject, that the president is subjecting his conduct to that scrutiny which will enable him to come to a satisfactory conclusion as to the point of duty whether he should or should not dismiss him. I intend, after a few remarks, to make a motion with respect to this message.

I avail myself of the occasion to express the high degree of satisfaction which I have felt in seeing the general and faithful execution of this law. It has been executed in Indiana under circumstances really of great embarrassment, doubt, and difficulty. It has been executed in Ohio, in repeated instances—in Cincinnati. It has been executed in the State of Pennsylvania, at the seat of government of the State, and at the great

commercial metropolis of the State. It has been executed in the great metropolis of the Union—New York—I believe upon more than one occasion. It has been executed everywhere except in the city of Boston, and there has been a failure there upon two occasions to execute the law.

I confess, sir, that when I heard of the first failure, I was most anxious to hear of the case of another arrest of a fugitive slave in Boston, that the experiment might be again made, and that it might be satisfactorily ascertained whether the law could or could not be executed in the city of Boston. Therefore, with profound surprise and regret, I heard of the recent occurrence, in which the law had been again treated with contempt, and the court-house of the country violated by an invasion of a lawless force. Sir, I stated upon a former occasion, that the mob consisted chiefly, as is now stated by the president, of blacks. But, when I adverted to that fact, I had in my mind those, wherever they may be, in high or low places, in public or private, who instigated, incited, and stimulated to these deeds of enormity, those poor black, deluded mortals. They are the persons who ought to be reached; they are the persons who ought to be brought to condign punishment; and I trust, if there be any incompetency in existing laws to punish those who advised, and stimulated, and instigated those unfortunate blacks to these deeds of lawless enormity, that the defects will be supplied, and the really guilty party who lurks behind, putting forward these miserable wretches, will be brought to justice. I believe—at least I hope—the existing laws will be found competent to reach their case.

Mr. President, in the message which has just been read, the president has suggested two or three doubts or defects in existing laws. The act of 1795 presupposes the existence and continued action of an insurrection, and, consequently, the existence and combination of insurgents who carry on that insurrection. The act, therefore, requires that before there shall be any application of force to quell the insurrection, there shall be a proclamation announced and read to the community and insurgents, commanding them to disperse, and then, if they fail to disperse, the application of force shall compel that to be done which the parties would not do without it. But it is manifest that in such a case as that which has recently occurred in Boston this act can not be carried out, because there is no pre-existing insurrection. There are no known insurgents. The first evidence of opposition and obstruction to the law arises from the fact that a party suddenly burst into the court-house, dispersed the officers, violated the sanctuary of justice, and committed those enormities of which we have recently heard. To make a proclamation beforehand is therefore impossible. The president suggests, among the legal remedies which these cases may call for, that of dispensing with the proclamation in such cases. There is some doubt, under the act of March, 1787, whether the army and navy authorized to be employed to enforce the laws of the United States can be employed without prior proclamation, as is required in case of an insurrection. That, also, is a subject worthy of consideration.

My motion then is, that this message and an accompanying document be referred to the Committee on the Judiciary, and that that committee be instructed to report, with all convenient dispatch, upon the recommendations contained in the message. I will also move, at a proper time, for its printing, and the printing of an extra number of copies.

The course of the senator from New Hampshire [Mr. Hale] does not surprise me; it is perfectly in keeping and congenial with his general course upon subjects of this kind. He pronounces a deliberate act of the executive of the country, our common chief magistrate, as ridiculous. Now, sir, that is matter of opinion, and being matter of opinion, it depends upon the opinion others may entertain of the person who expresses it. But the senator will allow me to say that upon a subject of that kind, and upon rhetorical subjects to which he has alluded, there are two standards of opinion prevailing; one, that of the member himself; and the other, that of the body of which he is a member. And if he will allow me to tell him, the appreciation made by a member of his own capacity for debate and readiness in it may be much higher than will be shared in by other members of this body.

Mr. Hale. That is a matter of opinion.

Mr. Clay. And I put my opinion against yours. But I must take occasion to say that on scarcely any occasion have I risen to speak in this body when the senator has not followed me, as if his great object was to compete with me the palm of elocution. I yield to the senator. I know the self-complacency with which he generally rises, and I hope he will receive this surrender on my part of any ambition between him and me to contend for the palm of oratory, with the complacency with which he usually rises in this body and presents himself before us. [Laughter.]

Now, what is the aim of the senator? To consider this mob, this negro mob as an isolated affair, as an affair of the two or three hundred negroes only, who assembled on that occasion, and violated and outraged the laws of their country. Is there any other man in the Senate who believes that it originated among these negroes? Do we not all know the ramified means which are employed by the abolitionists openly, by word and by print everywhere, to stimulate these negroes to acts of violence, recommending them to arm themselves, and to slay, murder, and kill any body in pursuit of them, in order to recover and call them back to the duty and service from which they had escaped?

The proclamation is not aimed solely at the miserable negroes, stimulated, no doubt, by those outside of the court-house; who laid all the plans, and some of whom, one at least, was at the door beckoning to the negroes to come in—I beg pardon, a white negro standing at the door beckoning to the negroes to come in. Does not everybody know that it is not the work of those miserable wretches, who are without the knowledge and without a perfect consciousness of what became them or what was their duty? They are urged on and stimulated by speeches, some of which are made on this

floor and in the House of Representatives, and by prints which are scattered broadcast throughout the whole country. The proclamation, then, has higher and greater aims. It aims at the maintenance of the law; it aims at putting down all those who would put down the law and the Constitution, be they black or white.

Sir, look at the manner in which a foreign hireling has been introduced into this country, in order to propagate his opinions and doctrines with regard to the subversion of one of the institutions of this country. I allude to a man who is said to be a member of the British Parliament, by the name of Thompson. He has been received not in one place only in Massachusetts, but in various places, and the police on one occasion assembled to protect him when they had not the heart to assemble around a court of justice to maintain the laws of their country.

Sir, let me suppose, if any member of Congress could be capable of doing such a thing, that a member of Congress should go to England—to Manchester or Birmingham, or any of the large provincial towns of England—and there preach doctrines subversive of the British government; should denounce their law of primogeniture, denounce the existence of the nobility there, denounce the Crown itself, how long would a member of Congress be permitted to denounce this portion of the ancient constitution of Great Britain? He would be driven out by violence, and with the scorn, contempt, and derision of every British subject who had the heart or manliness of a British subject. And yet this daring, impudent, insolent member of the British Parliament comes here from England, and repeats his visit, confining himself hitherto, as well as at the present time, unless he has recently left it, to the State of Massachusetts, and there he preaches his doctrines of sedition and disunion. And yet the member from New Hampshire would have the Senate believe that it is nothing but a few negroes collected together in a court-house, of whom it is unbecoming the dignity and character of the government to take any notice! When the whole northern country, to an extent not alarmingly great, to be sure, is filled with the doctrines of abolition, denouncing slaveholders as thieves and murderers, and calling upon portions of the community to subvert and trample under foot the laws of the land, and the Constitution itself—when the senator from New Hampshire has seen, as he ought to have seen, that these poor negroes were but the cats'paws of those who had not the courage to show their own faces, and the president has chosen to issue a proclamation, comprehending not only the blacks, but their aiders, abettors, and accessories, whom I am more anxious to see punished than the blacks themselves, he rises here with his usual complacency, and says it is childish and ridiculous. Sir, I call upon the Senate to stand by the president, and stand by the Constitution; to uphold their laws, and to prostrate all opposition, from what source soever it may emanate, whether from those who put forward the unhappy blacks, or those who stand back and have not the moral and physical courage to show their own faces. * * *

I can say, with the senator from Michigan, that I heard with great regret the remarks made by the senator from Virginia, because I do not coincide with him in the facts upon which his remarks were founded, and I think they may have a tendency to produce ill effects where there is already too much disposition in the public mind to be operated upon disadvantageously to the Union. I stated when I was up before, and I say now, that I doubt whether there is any man in Congress who has watched with more anxious attention the operation of the fugitive act of the last session than I have, and in every instance which has come within my knowledge the law has been executed. In no instance has there been a violent obstruction to the execution of the law, as far as I know, except in the city of Boston.

Sir, let me run rapidly over some of these cases. Let me recur to the acts in Indiana, so highly creditable to that peace-loving and union-loving State. It was the case of a claim for persons being slaves who were as white as you and I are. From what I read, the appearance of the persons bore testimony, as far as mere appearance could bear testimony to the fact, that they were not descendants of Africans; yet, as we all know in that case, testimony was deliberately listened to, and the fact was clearly made out, that, although they appeared to be white, they were descendants of Africans, and that the claimant of them owned them as property; they were thereupon immediately surrendered by the authorities. No attempt was made whatever to disturb the execution of the law. They were taken over to Louisville, but the generosity of the citizens of Indiana prompted them to subscribe a sum sufficient to buy these persons, and they were purchased at a moderate price and set at liberty. I know of no other instance which has occurred in Indiana, though there may possibly have been some other case.

We go to Cincinnati, and what do we find there? There was the case of a young female slave—prior to the one to which the honorable senator from Virginia has referred—who was claimed, taken before a commissioner, adjudged to be the property of the claimant, and quietly permitted to leave the city without the slightest disturbance. The very case to which the senator alluded is an example of the faithful execution of the law. What was it? A woman had escaped. While her master was pursuing her in the streets of Cincinnati, a mob collected, and the cry of her being free was raised. The man was pursued and the negress was rescued. But she was retaken and carried before the proper authority; that authority was in progress of examination of the fact whether she was a slave or no slave; and toward evening, the judge being about to postpone the case until the next day, the negro woman got up and said, "Let me go home to my master." That probably is the case with many of those household servants who are imprudently enticed away by abolitionists. She said "Let me go home to my master." There was, then, conclusive evidence of the existence of slavery. There was conclusive evidence that the owner

had a right to the property. Was there any attempt made then to rescue her, or to prevent her being taken on board the boat, and transported to the residence of her master? None whatever. The law was fully and faithfully executed.

Now with regard to the case at Harrisburg. Since this discussion has arisen, I have been informed, and with perfect satisfaction to my mind, that within a few days the comptroller has passed an account in which twelve or thirteen hundred dollars were allowed to the marshal for carrying the fugitive slaves back in that case to the neighborhood of the honorable senator from Virginia.

I will pass very rapidly over the other cases. There were two cases in Philadelphia—one in which the law was executed, and more than executed; for a person who was no slave at all was pronounced to be a slave, and was delivered up; but the mistake was ascertained, and he was returned. In the other case the law was fully executed, and the slave was actually taken back to his owner in Maryland. So in the case of Long, in New York, which was the second or third case which occurred in that great city. Long's trial, I think, was a most beautiful exhibition of the moral power of the law, and of the disposition of the population of that great and glorious city to see the law executed. It was in progress for two weeks. Full deliberation was given. Witnesses were heard pro and con., and the officer finally decided that the claimant of the slave was his true owner, and he was carried back through the free State of New Jersey, without molestation, through Pennsylvania, through the State of Delaware, and that part of Delaware which would be considered as almost entirely free—through Wilmington—to Baltimore, and then to Richmond, by the marshal, or some of his deputies, at a great expense, which, I dare say, when we come to read the accounts, will be shown by them.

Now, what does the senator from Virginia expect? He has mentioned no case in which there has been a failure on the part of the claimant that has pursued his slave to recover him. Did he expect, upon the passage of the law, that, without diligence on the part of the master, the slave was to be returned to him at no expense whatever. Did he expect that there would be no evasions of the law? How are they to be guarded against? Why, we all know the way in which these things are conducted. A negro runs away in the night, and when he is in a free State he will be received and harbored, by whom nobody knows. He will silently and rapidly make his way to Canada. How is this to be prevented? All laws, more or less, are liable to be evaded; and that law, above all others, will be most evaded where the object is to recover a human being who owes service as a slave to another; because, besides the aid and the sympathy which he will excite from his particular condition, he has his own intellect, his own cunning, and his own means of escape at his command. Now, there are some persons who will not pursue their slaves at all. Many will not give themselves the trouble to go after them. But, before the law can be charged

with any violation of duty to the slaveholding States; before the president can be arraigned for any violation of his duty, a case should be made out where, by the exercise of proper diligence and vigilance on the part of the executive authorities, the case of evasion could be prevented.

With respect to the case in Boston which first occurred, what was done? The agent of the owner of the slaves in that case himself, before he left Boston, expressed to the marshal his entire satisfaction with his conduct. The slaves were hurried off, carried to another State, and transported to England. What did the president do? He submited all the papers connected with the conduct of the marshal to the law officer of the government, that officer himself from a slaveholding State; and that officer, although he was not entirely satisfed with the conduct of the marshal, gave it as his deliberate and legal opinion that sufficient ground for the removal of the marshal had not been presented. I think myself that the late case, without speaking at all of the one that previously occurred in Boston, does present a ground for his removal. What the president may do I know not. What I would do, if I were in his situation, I have no hesitation in saying I would remove him. He has shown that, either by himself or by his deputies, all those measures of precaution, in anticipation of what might occur, had not been taken, and he had failed to execute a law of the United States, by which he was authorized to hire a jail for the purpose of the security of the slave.

I think, then, that what I said when I was up before is perfectly correct. The law has been executed, as far as we know, in every free State in the Union in which it has been brought into operation, with the sole exception of the city of Boston. That being the case, I think there is no just ground of reproach whatever toward the executive of the nation. I am happy to see the senator from Michigan, though standing in different political relations to the president, do him the justice which he has done this day by the declaration of opinion which he has made. Sir, I am perfectly satisfied, from all I know of the president and his cabinet, that there is a most perfect and immovable determination to carry into execution the laws of the land, and to employ all the means in their power in order to accomplish it.

I owe an observation to the honorable senator from New Hampshire. He seemed to intimate that there was some purpose on my part to suppress the freedom of debate in his own particular case. I think I know tolerably well what I am capable of, physically and intellectually. There are some works too gigantic for me to attempt, and one of them is to stop the senator from debate in this body. It is utterly impossible, and I shall make no such vain endeavor. He must, as George Canning once said, come into the Senate every now and then "to air his vocabulary." But the senator made an observation with respect to a high officer of this government that I thought unbecoming the dignity of the Senate, or the dig-

nity of the senator. He spoke of the message of the president as a contemptible and ridiculous message.

Mr. Hale. The senator is mistaken; I referred to the proclamation.

Mr. Clay. I thought the senator alluded to the message; however, I think the proclamation is one of the best parts of the message. Mr. President, an old maid of my acquaintance—the anecdote has been told before—was running on, upon one occasion, in the city of Baltimore, very much against Napoleon, speaking of his conduct very harshly, pronouncing him a despot, and all that. A French officer, with the politeness which usually characterizes that nation, being present, "Madam, I am very sorry that you think proper to express these sentiments of his Imperial Majesty, and I have no doubt it will inflict great pain on him when he hears of it." [Laughter.] The president will feel about as much pain when he hears the opinion which has been pronounced by the senator from New Hampshire upon a solemn and deliberate act in the performance of a high duty.

It has been said that this is an isolated case. Do you ever, sir, see the papers from Boston? I mean the abolition papers from that city, and not only from that city, but from other portions of the country. Do you not see this Union denounced? Do you not see a declaration that within the limits of Massachusetts the fugitive slave law never can be executed? Do you not see advice given to the blacks to arm themselves and kill the first person that attempts to arrest them and take them back to the service from which they fled? When you see this, and when you hear of the blacks and whites mixing together in public assemblies in Boston, can you think that the blacks never heard the advice to arm themselves with revolvers and bowie-knives and put down any attempt to carry them away? If you have read it, can you fail to believe that it must have operated on their minds, and that they have thought with what impunity they might rush into that court-house and commit the atrocious scene which has been depicted.

[February 24, the same subject being up, and the question being on referring the message of the president, Mr. Clay said:]

I came to the Senate to-day under a feeling of indisposition, which would have kept me in my apartments but for the high sense of duty connected with one of the most important questions which has arisen and is now before the Senate. I came under the hope, which I still cherish, of this subject being terminated to-day; and under that hope, and according to the courteous usage of the Senate, I have risen to make a few, and I trust concluding remarks upon the question.

Mr. President, allow me, in the first place, to recall to the Senate the questions which are actually before it. A mob, an atrocious mob, obstructed the execution of the laws of the United States in one of the most important cities in the Union. Everywhere throughout this whole country it has produced feelings of surprise, of regret, and of indignation. Anxious

to know what was the real state of fact, on this day week I presented a resolution to the Senate, calling on the president to communicate to us information connected with this occurrence, and to communicate to us the measures he had taken in order to enforce the due execution of the laws of the United States, and to suggest any amendment to these laws which he might deem necessary in order to enable him to carry out and perform his duties.

The president has sent us a message stating what were the facts; what he has done, to a certain extent at least; and he recommends some alterations in the law, in order to enable him with more effectual and energetic power to discharge his duty. When the message was received, I got up and made a very few remarks, expressing my satisfaction with the message —a satisfaction which I venture to say exists throughout this entire country, with the exception of those ultras at the North and South who are urging on, as far as they can, a great crisis in this country and in this Union. Everywhere, I venture to say, this message has produced satisfaction. A debate of a most extraordinary character has arisen—without limit, with far less limit than the doctrines of consolidation to which the senator who last addressed you adverted. Almost every topic that could be thought of has been brought up and forced into the debate. Sir, it is not my purpose to answer all that has been said by the various senators who have addressed you. I shall, however, touch upon some of the topics which have been brought forward by some of the senators, and I begin with the last.

The senator from South Carolina has arisen and laid down what are the true rules of interpreting the Constitution. But he has told us nothing new; he has given us only common-place matter. Every body knows that the Constitution is an aggregate of granted powers, and that no powers can be exercised by Congress but such as are granted, or are necessary and proper to carry into effect the granted powers. The speech of the senator reminds me of a remark of the late Chief Justice of the United States, when a learned counsel from one of the distant States began to argue and went as far back as the flood, laying down certain fundamental rules of the law which he thought essential to be known to the Supreme Court. With that blandness and mildness that characterized that illustrious man, he said: "Why, Mr. Counsel, I really think there are some things which this court may be presumed to understand." I do think that the senator, without any derogation from his own dignity, or that of the Senate, might have supposed that the general rule of interpreting the Constitution, by referring to the granted powers, or ascertaining what are necessary and proper to carry into effect those granted powers, might have presumed that the Senate of the United States understood them perfectly well. The whole difficulty with the senator and his school is, that they undertake to say what are the granted powers, and what is and what is not necessary to carry into effect the granted powers. And if all others do not concur with them they are

consolidationists, federalists, whigs, precipitating the country into ruin. They dispose of all precedent. What is a precedent? A precedent is the deliberate judgment of a court or a deliberative body, upon questions which arise before that court or before that body. It is the opinion of the court or of the body upon the subject-matter which is before them. It is, therefore, always entitled to respect, and he who sets aside precedents, he who rejects them all, says, in substance, I am wiser than all the men who have pronounced these opinions and established these precedents, and therefore I pay no respect to them. During the last week I heard a senator, who is not now in his place, I believe, reject in one general mass all precedents upon a particular subject, and immediately afterward sheltered himself behind the opinion of the illustrious and lamented senator from South Carolina (Mr. Calhoun) which he thought was superior to all other opinions and all other precedents. So it is with the whole school. They will tell you that the Supreme Court of the United States knows nothing about the Constitution; that Congress has been violating it from 1793 down to this day. But if they can find an opinion of the lamented individual to whom I have referred, sanctioning their views, why it is worth all the precedents and the opinions of the Washingtons, Jeffersons, Madisons, Monroes, and all the other Presidents of the United States. The learned senator has contended that there was no power in the government of the United States to pass the fugitive slave law. It is not among the most remarkable features of the times, that there are certain coincidences between extremes in this body and in the country. The honorable senator from South Carolina, who I believe holds extreme doctrines upon the subject of slavery, and considers that institution as a blessing, and the honorable senator from Ohio (Mr. Chase) who holds directly opposite opinions, both unite in expressing the opinion that there is no power in the Congress of the United States to pass the fugitive slave law, and that Washington, and all of us, from the commencement of the government down to this time, have been wrong; that the Supreme Court has been wrong, and that the Congress of 1793 were wrong. Yet the colleague of the senator from South Carolina, I believe, originally introduced the bill, and it was perfected by the senator from Virginia (Mr. Mason). How does the matter stand now? The honorable senator from South Carolina and the honorable senator from Ohio versus the Supreme Court of the United States, the Congress of the United States of 1793, and the Congress of 1850, and all the members of the Senate and the House of Representatives; for I never heard any one else doubt the power of Congress to pass this law. When there is so much weight in both scales, one occupied by the two senators whom I have mentioned, and the other occupied by the whole country, and by almost every enlightened man who has spoken on this subject, it is not for an humble individual like myself to say which scale preponderates.

I will be allowed, I trust, to make a few remarks upon the Constitution of the United States, upon this subject, and upon the doctrines which have

been advanced by the senator from South Carolina. He says the more you limit the Constitution the more you add strength to it. Then, I suppose if all the powers of the government are to be taken away in this process of limitation, it would make the Union stronger. He says the more you stretch the Constitution the more you increase the danger to the perpetuity of the Union. But who is to decide the question of stretching the powers of the Constitution, and of limiting them? What man, mortal, fallible, weak, erring man, can get up here and say the Constitution means this or that, and all others who give it a different interpretation are traitors, consolidationists, whigs, or federalists? I have never heard a man get up here and talk about his being a State-rights man emphatically and exclusively, *per se*, Simon Pure, that I did not feel those emotions which Junius describes whenever he saw a Scotchman smile. [Laughter.] Sir, there are two schools of State-rights men. One of South Carolina, and one of Virginia, Kentucky, and other States. From my birth, or from my knowledge of conscious existence as a human being, and since I have turned my attention to political affairs, I have been emphatically in the true, legitimate, full sense of the term, a State-rights man. But look at that school to which I have referred. They want you to exercise no power but what is to be found in the Constitution. I should like some of those strict State-rights men to point out to me what part of this Constitution gives to any one State the power of nullification of the acts of all the other States? What part of the Constitution gives to any one of the States the power of secession from the membership of the Union? Where are they to be found? Why you find whenever you press them on these points, they fly from the Constitution and talk about the mode of its formation, its compact character, its being formed by the States. Whenever it suits their purpose, or for any improper purpose they wish to deduce power, either of nullification or secession, or any other, they can find it without the least difficulty, limited and circumscribed as they would have all others in the interpretation of the Constitution.

Mr. Rhett. I wish to say to the honorable senator from Kentucky that I suppose he will not at all object, from the course he is pursuing, if I should think proper to reply to the observations he is now making.

Mr. Clay. Of course I have no right to object to it. If the gentleman chooses, I will sit down now, if he has any thing to say. I think it due to the Senate that this debate should be closed to-day, and this message be referred to the committee in order that they may act upon it immediately. I will listen with pleasure to the senator if he wishes to go on now. But it is a mere passing notice upon nullification and secession which I have been making, and I will meet the senator, or any of his school in debate, whenever they choose to bring up this point on a proper occasion.

Mr. President, I could enumerate various instances where, when powers were wanted, there was a departure from the rules of interpretation which

are insisted upon by the senator. Whenever the exercise of power is disliked, when there is an opposition to the power, whenever there has been an opposition to a law of a certain character being passed, the denial of the power to pass it is the invariable resort. Now, with respect to this question, if we must discuss a question which has been settled for upward of half a century, let us look for a few moments only—for I do not propose to take up much time—to this matter. The senator says that the clause which relates to the recovery of fugitive slaves vests in Congress no power whatever to enforce the execution of that provision of the Constitution. Here I will read the clause:

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

The senator contends, as does his coadjutor in this interpretation of the Constitution, that this is a duty devolved on the States. How so? The States are not mentioned, and Congress is not mentioned, and therefore if, for the want of declaring that Congress should exercise the power, the power can not be exercised by Congress, so, for the want of declaring that the States should exercise the power, the States can not exercise it. Thus, according to the argument of the senator, neither the States nor Congress can exercise the power. But what is this Constitution? It makes a government. It is an aggregate of powers vested in the government—some of them enumerated; others, from the imperfection of human nature and human language, are not specified, but are incidents to the powers granted. I find in the enumeration of the powers granted to Congress the following:

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."

I hold that, when it is said a thing shall be done, and when a government is created to put this Constitution into operation, and no other functionary or no other government but the United States is referred to, the duty of enforcing the particular power, the duty of carrying into effect the specific provision, appertains to the general government, to the government created by the Constitution of the United States. The Constitution declares that a slave shall be delivered up. It says not how or by whom, whether by the State, or by the general government, or by any officer; but it grants authority to Congress to pass all laws necessary or proper to carry into effect the powers granted by the Constitution.

There is another class of powers which, if I had time, I would go through. Here is one clause:

"All debts contracted and engagements entered into before the adoption of

this Constitution shall be as valid against the United States under this Constitution as under the Confederation."

What power could carry into effect this provision of the Constitution? Must it not be Congress? I find the following clause:

"The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."

There is a general enunciation of the principle of a great object. But has not the government the power to carry the object into effect? Will the senator say that the general government has not the right to specify cases of rebellion and invasion, whenever the public safety may make it necessary to suspend the writ of habeas corpus? Why, there is a large class of powers in the original Constitution, and in the twelve subsequent amendments, which declare that certain things shall be, but specify no particular authority by which they are to be carried into effect. I then come to the conclusion that the Congress of 1793, which had in it such lights as Madison and other distinguished men, who had contributed to form the Constitution, that the Supreme Court of the United States, that the Congress of the United States, that the people *en masse* almost of the United States, have not all been wrong in supposing that, while it is not the exclusive duty of Congress, yet it is the imperative duty of Congress, especially in cases where there is any defect in State legislation, to carry into effect this provision of the Constitution with respect to fugitives, and all other general provisions where there is no specification of the manner in which they are to be carried into effect. Sir, I do not take up the decision of the Supreme Court in the case of Pfigg and Pennsylvania. I know the interpretations to which it is liable. I regret that that court has not since had an opportunity of pronouncing on the principles which they then disclosed. Three or four of the judges gave opinions which conform to my idea of what the Constitution is; that is, that while the States have no right to obstruct the execution of the law for the recovery of fugitives, while it is more especially the duty of Congress to provide the necessary laws for their recovery, it is nevertheless competent for the States to aid, to help, to assist in the execution of this power, as it is competent for the States when we are involved in war to aid in the prosecution of that war, although the war has been declared by Congress, and must be mainly maintained by the general authority.

Mr. President, it was said in the course of this debate that the law has not been fully executed; that there are fifteen or thirty thousand slaves in the free States, and only a few of them have been recaptured. I dare say that in some localities of the country, before the end of the year, it will be said that there are fifty or one hundred thousand fugitive slaves not surrendered up. I should like to know from any senator who has ventured to state the actual number of fugitive slaves in the free States

of this Union, upon what authority he ventures to make the statement. If it should be said that from the commencement of the government fifteen or twenty thousand slaves had escaped from service in the different slaveholding States, I should not be much disposed to controvert the fact. But when it is asserted that at this moment there are fifteen or twenty thousand fugitive slaves in the free States, and that only half a dozen have been recaptured, and that therefore the law has not been of any practical utility, I should like to know the statistics or the facts on which the statements are founded.

Mr. Rhett. I will state to the senator that I got the statement from the published proceedings of an abolition society or convention held in the State of New York.

Mr. Clay. Ah! exactly such an authority as the gentleman ought to take. The abolition societies of the North will probably take some such statement, or corresponding statement, from one of those societies in South Carolina that are associated together to assert the doctrines of secession and disunion. I do not believe the statement of that abolition society. No man knows how many fugitive slaves there are in the North. There are, without doubt, a good many. But why are they not given up? I venture to say that in a majority of cases their former owners do not choose to put themselves to the trouble of pursuing them. I dare say many of them die, and hundreds, perhaps thousands, escape into Canada. I presume gentlemen will not say that it is the duty of the government to bring the dead back to life, or to bring the fugitives in Canada back to the United States, unless they contend for what a waggish friend of mine said the other day. "Why," said he, "these gentlemen are very unreasonable, for they would perhaps desire that a slave should be caught and surrendered before he actually runs away." [Laughter.] What I meant to say before, and what I say now is, that there has been no resistance to the law for the recovery of fugitives that I know of, except in the single case of Boston. I admit there has been some inconvenience sustained. We could not fail to anticipate such inconvenience. There has been some expense, too; and I concur entirely with the senator from Georgia [Mr. Berrien], when he pronounced upon the pettifogging resorts which were made in a manner disgraceful to the profession in Boston, in order to arrest the agent from Georgia who went there to recover his property. But is the general government to be responsible if slaves are aided and facilitated in their escape, under circumstances in which it is impossible for them to be pursued, while all the general government can do is to pass laws, and to enforce them, and execute them?

The senator said that this proclamation of the president, and the invocation of power, was to catch a fugitive slave. Now, is that the true state of the case? The fugitive who ran away from Boston the other day I think will probably never be retaken, but it may be a consolation to him, and will be to his owner, to know that the marshal is responsible for him

under the act passed at the last session. Was the destruction of the tea in the harbor of Boston at the commencement of our Revolution nothing more than a little question as to the price of tea? No, but a principle was involved in it. So is a principle involved in this matter. What is that principle? It is, whether the laws shall be violently and outrageously opposed by force, or shall be executed? If to-day the law upon the subject of fugitive slaves is to be obstructed by violence and force, and its execution prevented, what other law on our statute-book may not to morrow be obstructed by equal violence and its execution prevented? What department of the government, what government itself, will not be opposed by violence and by force, and thus its very existence be threatened? The question, then, is not the recovery of the fugitive slave. The question is, shall the government be maintained? Shall the law be enforced? Shall those who have violated the sanctuary of justice and carried away by forcible rescue a prisoner in the custody of the United States, and all other similar occurrences, be averted and prevented by peaceable means, or, if not prevented, punished? Why, we would have a case somewhat analogous to that which occurred in Boston, if two or three hundred black men, instigated by a parcel of white men, were to enter that door and drag the senator from Ohio, or any other senator, from his seat and withdraw him from his duty. Would it then be said that only one senator out of sixty-two had been taken, and it was no great matter? No, sir. The question is not about one or two thousand fugitive slaves. It is a question which strikes at the authority of the law—strikes at the maintenance of this government, which we have derived from our ancestors.

The senator from Ohio [Mr. Chase], the other day told us that it was promised that the compromises of the last session would bring peace and tranquillity to this land, and that these measures have effected no such thing. Why, sir, so far as relates to the Wilmot proviso, agitation is quiet. So far as relates to the admission of California, it is quiet. So far as relates to the settlement of the boundary, there is quiet. So far as relates to the abolition of slavery in this District, I have not heard a single voice complaining of it. Then those measures have worked wonders. At least, the honorable senator, and others who concur with him in opinion, anticipated a vast and boundless fund of agitation if the compromise measures were passed. Instead of that, they have themselves been reduced to peace. Nay, more: the senator himself, who was at the last session an agitator, cries out for peace, and reproaches me with being an agitator, of which charge I will presently take some notice. Those measures have worked a miracle. They have made thousands of converts among the abolitionists themselves, and not one of them has risen upon this floor, or upon the floor of the other House, I believe; or if he has risen he was instantly repelled, to move even a repeal of the measure; which, by-the-by, the senator from South Carolina ought forthwith to do, if he thinks the fugitive slave law unconstitutional. I supposed he intended to conclude by inti-

mating a purpose of that kind. No, sir; peace has been produced to an extent surpassing even my most sanguine anticipations. There was one exception made to the universality of peace. It was predicted by myself and others, at least that the ultra abolitionists would not be tranquillized; that they would go on and agitate; and they would denounce the existence of the Union. At Springfield, the other day, a meeting declared that, Constitution or no Constitution, Union or no Union, law or no law, they wished the non-execution of the fugitive slave law within the limits of that commonwealth. Did the senator suppose we had undertaken the herculean task of pacifying his friends, or at least those who think with him on the general subject of abolition?

MR. CHASE. Does the senator mean to enumerate me among those who ever expressed a wish for the dissolution of the Union?

MR. CLAY. No, sir; I only mean to say that the senator is in bad company. [Laughter.]

MR. CHASE. If the senator will be so kind as to allow me to add a word, I will say, that if I am in bad company I do not know it.

MR. CLAY. I mean in the company of the abolitionists. If the senator will disavow and repudiate the abolitionists of all shades and colors, I should be truly happy to hear him.

MR. CHASE. I do disavow most emphatically all association or connection with any class of persons who desire the dissolution of this Union. I say now, as I said at the last session, that "we of the West are in the habit of looking upon this Union as we look upon the arch of heaven; without a thought that it can ever decay or fall." In this sentiment I fully participate. I am aware that there are some abolitionists or anti-slavery men—names are of little consequence—who regard the Constitution as at war with moral obligations and the supreme law. I am not of them. But if the senator, when denouncing abolitionists, means to include in his reproaches all those citizens who, within the limits of constitutional obligation, seek to rescue this government from all connection with slavery, I can claim no exemption. I am one of those who mean to exercise all legitimate constitutional power to restrict slavery within the limits of the slave States, and in all places under the exclusive jurisdiction of the national government to maintain every person, of whatever race or origin, in the enjoyment of personal freedom. That is my position.

MR. CLAY. Mr. President, I am perfectly aware of the infinite variety of abolitionists. I have not yet heard the senator disavow abolitionism.

MR. CHASE. I do not know what the senator means by the term.

MR. CLAY. Disunion abolitionism.

MR. CHASE. I do not know to what class of persons the senator means to refer, when he denounces and stigmatizes people as abolitionists. If he by that epithet intends to designate that class of persons of whom I say I am one, who wish to maintain the Union, but not to allow slavery within the sphere of the exclusive jurisdiction of the national government, then I

am, doubtless, an abolitionist. But if by that term he intends only to describe those who would break up the Union or interfere with that State legislation by which slavery is maintained within State limits, I do not acknowledge its applicability to me.

Mr. Clay. Upon my word, if the senator does not know what an abolitionist means, when he has practiced the doctrine for so many years, I am sure I am unable to instruct or inform him. All sorts of abolitionists seem to act together. There are some more unblushing and violent than others; there are some who call themselves ministers of God, who from their pulpits denounce the Constitution of the Union, and denounce all the States in which slavery exists. Whether the senator be one of them or not, it is not for me to say. I am very happy to hear him avow that he is not a disunion abolitionist. There are two descriptions of persons constituting the great abolition movement of the country. If those who disavow extreme abolition will nevertheless, upon all questions which rise in Congress or in the country, array themselves on the side of the abolitionists, and co-operate with them and support measures which they support, and if these men are those whom alone the abolitionists will support by their suffrages for office, call them as you please, the result, the inevitable consequence of the association, unless it is resisted by the potency of the law and power of public opinion, is dangerous to the Union itself. The honorable senator, on Saturday last, placed himself in the attitude of one who was desirous of peace, and quiet, and tranquillity, and imputed to me the spirit of agitation. The honorable senator, indeed, came into the Senate with all the authority of a prosecuting attorney in a court of justice; his green bag dangling at his side, his brief in his hand, his notes in his pocket, and his authorities in his head. The two counts of his indictment against me were, to make out that I was an agitator and he a tranquil senator. Why? Because the executive of the United States had communicated to us a document showing that, to an atrocious and nefarious extent, the slave-trade was carried on, under the flag of the United States, from the coast of Brazil to the western coast of Africa, and I called the attention of the Senate to the fact, and moved a resolution to instruct the committee to inquire into and report upon the subject. I believe the senator opposed the reference, or, if he did not oppose the reference, he made a speech on the occasion. My object on that occasion was to enforce the laws of the country, as on this occasion my object is to clothe the executive of the country with power sufficient to remove forcible obstruction to the execution of the laws. I who, during the last session, ever raised my humble and feeble voice in favor of the peace, the tranquillity, and the union of these States—I who, upon only two occasions this session, when the subject of slavery has been referred to—(I mean on the occasion when the foreign African slave-trade was mentioned, and I sought to introduce a measure to suppress it and to punish the violators of our laws; and again on this occasion, when, without special reference to the

act of the last session for the recovery of fugitives, I proposed a general law—for such would be the effect of the law, if one be reported by the committee—that in all cases where obstructions by force are attempted against the execution of the law of the United States, the president shall be invested with certain powers to put down those obstructions)—I who, all the last session, and all this session, have stood on the side of peace, of the Constitution, and of the laws and union of my country, I am an agitator! The honorable senator from Ohio, who has stood in directly an antagonistical position to me during the whole of the last session—for on Saturday last, I think, he told us he voted for but one of the compromise measures, and that was the abolition of the slave-trade in the District of Columbia—is a peace lover and not an agitator! I who stood in this position, and the senator who stood in an antagonistical position—I who now stand to execute the laws of my country, no matter what those laws may be, and the senator who stands up in opposition, if I understood him, to the enforcement of the laws, and to the reference of the message—I am an agitator, and the senator a dove of peace. [Laughter.]

While on this subject, I beg leave to say, that, except in the case of the whisky rebellion, there has been no instance in which there was so violent and forcible an obstruction to the laws of the United States since the commencement of the government. Perhaps I ought to say a word on an occurrence of this kind, which took place in my own town, which was referred to the other day by the senator from New Hampshire [Mr. Hale]. What was that case? A namesake of mine attempted to establish a paper in the town of Lexington, that town situated in a county where there are the greatest number of slaves of any county in the whole State of Kentucky. There were some intemperate and supposed to be incendiary articles in the paper. The editor was requested to stop his paper; he refused to do it. The people of the surrounding counties—the *élite*, the men of wealth and highest respect, the most prominent men in society—I was not there myself, and do not suppose me to be approving even of that apparently orderly proceeding, for, on the contrary, I condemn all violent interference with the due and regular execution of the laws—assembled in the town of Lexington to the amount of thousands. That public meeting appointed a committee of sixty or eighty persons to request the editor again to remove his paper. He declined. They then removed it themselves. It was taken out without the employment of force, and without resistance. The types were carefully put up and sent to Cincinnati, the city in which the honorable senator from Ohio himself resides. But now for the sequel. This editor was himself exceptionable to that meeting. But he brought his suits in the courts and actually recoverred damages for the injury done to his property by its being seized and removed, contrary to his wishes and in violation of his rights. He recovered a verdict and judgment, and received every cent to the full amount of injury he had sustained.

Sir, I shall not go over the various instances which have been adverted to of the riotous proceedings of mobs, as they have been called. I condemn them all. But if they have been as frequent as they have been represented to be, so far from their being a palliation for the recent mob in Boston, the necessity is greater that the government should speak out and exercise its power to repress the irregular proceedings. There seems to be some regrets expressed about the employment of force in order to execute the laws of the United States. I happen to have in my hands two laws passed on the same day, during the administration of Mr. Jefferson, investing the executive part of the government with power to employ the military and naval forces. One provides:

"That in all cases of insurrection, or obstruction to the laws, either of the United States or of any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of repressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect."

This act was passed March 3d, 1807, and on the same day another law was passed. I will not take up the time of the Senate by reading it, as it is very long. It was a law for the removal of persons who took possession of any part of the domain of the United States. I will read a part of it:

"And it shall moreover be lawful for the President of the United States to direct the marshal, or officer acting as marshal, in the manner hereinafter directed, and also to take such other measures and to employ such military force as he may judge necessary and proper, to remove from lands ceded or secured to the United States, by treaty or cession as aforesaid, any person or persons who shall hereafter take possession of the same, or make or attempt to make a settlement thereon, until thereunto authorized by law."

Here were two laws passed on the same day, on the same 3d of March, 1807—one general, extending to all obstructions of the law, and authorizing the employment of military force; and the other applicable to the single case of persons settling on the public lands, and attempting to hold possession. I know it is sometimes said that this is a government of opinion, and that you can not employ force. No man on earth would deprecate more than myself the occasion of any occurrence in which it might be necessary to employ force. No man would regret more than myself the shedding of one drop of American blood in order to enforce the laws of the United States. But a government without power, a government resisting opinion without means to enforce the laws, without means to enforce the authority, and decrees, and judgment of its courts of justice, would be the most ridiculous that ever presented itself to the contemplation of a human being. I go for public opinion, and I go for force when

it is absolutely and indispensably necessary to apply it. I go for all the means with which we are invested by the Constitution of the country in order to maintain, at the North and at the South, and everywhere, the authority of the laws of the government inviolate; to carry them out in full and complete execution.

Sir, I shall have done when I have described in a few words the necessity for the reference of this message. The act of 1795 was passed in pursuance of that provision of the Constitution which declares that Congress shall have power to pass laws to call out the militia to enforce the execution of the laws, and in order to repel invasion and suppress insurrection. The law of 1795 was passed in consequence of the power vested in Congress. By the terms of that law, before the application of force is made, it is required that a proclamation shall be issued by the president calling upon the insurgents to disperse. The law therefore presupposes the existence of an organized force in hostile array against the government. The act which I read, of March, 1807, referring to that of 1795, declares that the president shall have power to call out the navy and army, to be employed as he is authorized to employ the militia force by the act of 1795. Proclamation, therefore, is necessary, by the act of March, 1807. Now, it is manifest to every senator here that this condition of the law does not meet the case which occurred in Boston, and which may again occur in the same State, or other States. The law, I repeat, is founded on the supposition of existing, open, undisputed insurrection, and open rebellion and opposition to the laws. But the case which occurred in Boston had no such feature. The first knowledge of there being any force in combination against the law was the demonstration by the mob at the court-house—the pressing upon the doors, the seizure of the fugitive, and his being carried off triumphantly through the streets of Boston. It is proposed to invest the president with power to call out the militia, to call on the army and navy in case where he shall have just cause to apprehend, either in the arrest or after the arrest of the fugitive, a rescue of the slave. That is the sole purpose of the reference which is proposed by me, and to do away with any preliminary proclamation which, if it were issued at all, would of course favor the parties with an opportunity of preventing the re-arrest, if it did not enable them to make a rescue with more success.

Having said thus much, I will no longer detain the Senate. I would not have addressed them but for the extraordinary circumstances of the case. I hope the message will be referred, and I call for the yeas and nays on the question.

The yeas and nays were ordered.

THE LAST PARLIAMENTARY EFFORT OF MR. CLAY.

IN SENATE, MARCH 1 & 3, 1851.

[The River and Harbor Bill of the Thirty-first Congress, being in its last stage as the Congress was about to expire, on the 4th of March, 1851, and there being a majority in both Houses who would not dare to do other than vote for and pass it, if they could be brought to act on the final question, Mr. Clay was extremely anxious to get a vote upon it. But only three days of the session remained; and there were senators who were resolved to defeat the bill by speaking against time, and by proposing amendments. On the 1st of March, Mr. Clay rose and spoke as follows.]

There are three modes of killing a bill. One is by meeting it boldly, straight-forward, coming up to the mark, and rejecting it. Another is by amendments upon amendments, trying to make it better than it was. Of course I do not speak of the motives in offering the present amendment. I speak of the effect, which is just as certain, if these amendments are adopted, as if the bill was rejected by a vote against its passage. A third mode is to speak against time when there is very little time left.

Sir, I have risen to say to the friends of this bill that if they desire it to pass, I trust they will vote with me against all amendments, and come to as speedy and rapid action as possible. Under the idea of an amendment you will gain nothing. I think it likely there are some items that should not be in the bill; and can you expect in any human work, where there are forty or fifty items to be passed upon, to find perfection? If you do, you expect what never was done and what you will never see. I shall vote for the bill for the sake of the good that is in it, and not against it on account of the bad that it happens to contain. I am willing to take it as a man takes his wife, "for better or for worse," believing we shall be much more happy with it than without it.

An honorable senator has gotten up and told us that there is an appropriation of $2,300,000. Do you not recollect that for the last four or

five years there have been no appropriations at all upon this subject? Look at the ordinary appropriation in 1837 of $1,307,000; for it is a most remarkable fact that those administrations most hostile to the doctrine of internal improvements have been precisely those in which the most lavish expenditures have been made. Thus we are told this morning that there were five, six, or eight hundred thousand dollars during General Jackson's administration, and $1,300,000 during the first year of Mr. Van Buren's. Now, there has been no appropriation during the last three or four years, and, in consequence of this delinquency and neglect on the part of Congress heretofore, because some $2,300,000 are to be appropriated by this bill, we are to be startled by the financial horrors and difficulties which have been presented, and driven from the duty which we ought to pursue. With regard to the appropriations made for that portion of the country from which I come—the great valley of the Mississippi—I will say that we are a reasoning people, a feeling people, and a contrasting people; and how long will it be before the people of this vast valley will rise en masse and trample down your little hair-splitting distinction about what is national, and demand what is just and fair, on the part of this government, in relation to their great interests? The Mississippi, with all its tributaries—the Red, Wabash, Arkansas, Tennessee, and Ohio rivers—constitute a part of a great system, and if that system be not national, I should like to know one that is national. We are told here that a little work, great in its value, one for which I shall vote with great pleasure—the breakwater in the little State of Delaware—is a great national work, while a work which has for its object the improvement of that vast system of rivers which constitutes the valley of the Mississippi, which is to save millions and millions of human lives, is not a work to be done, because it is not national. Why, look at the appropriations. Here was our young sister, California, admitted but the other day; 1,500,000 for a basin there to improve her facilities, and how much for custom-houses? Four or five hundred thousand dollars more in that single State for two objects than the totality of the sum proposed to be appropriated here. Around the margin of the coast of the Atlantic, the Mexican gulf and the Pacific coast, everywhere we pour out, in boundless and unmeasured streams, the treasure of the United States, but none to the interior of the West, the valley of the Mississippi: every cent is contested and denied for that object. Will not our people draw the contrast? Talk about commerce? We have all sorts of commerce. I have no hesitation in saying that the domestic commerce of the lakes and the valley of the Mississippi is greatly superior in magnitude and importance to all the foreign commerce of the country for which these vast expenditures are made. Sir, I call upon the north-western senators, upon western senators, upon eastern senators, upon senators from all quarters of the Union, to recollect that we are parts of one common country, and that we can not endure to see, from month to month, and from day to day, in consequence

of the existence of snags in the Mississippi which can be removed at a trifling expense, hundreds of lives and millions of property destroyed, in consequence of the destruction of the boats, navigating these rivers, for the want of some little application of the means of our common government.

I do not say these people will be driven to any great and important action, threatening the integrity of the Union. No, sir; they will stand by this Union under all circumstances; they will support it, they will defend it, they will fly anywhere and everywhere to support it; but they will not endure much longer this partial, limited, exclusive appropriation of the public revenue of the country to this mere margin of the country, without doing any thing for that interior which equals nearly, if it does not entirely constitute a moiety of the population of the country.

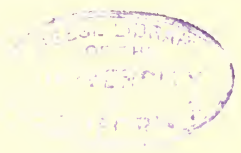
Mr. President, I have been drawn into these remarks very irregularly, I admit. I am delighted to see some of my democratic friends breaking the miserable trammels of party. Nationality! Is not that a national improvement which contributes to the national power, whether the improvement be in the little State of Delaware or in the great valley of the Mississippi river? What makes it harder, especially with regard to the Mississippi river, is, that from the vast body of water it is impossible to make any great national improvement. All that can be done is to make small annual improvements, by clearing out trees from that great national highway, to take up the annual snags which form themselves in the river. It requires constant and incessant application of means in order to keep the stream clear. I have been drawn into these observations contrary to any purpose I had. Here is the measure before us. If gentlemen choose to exhaust the remainder of the session in useless amendments, the effect of which is to destroy the bill, if they choose to exhaust the session in speeches made from time to time, let them not charge us with defeating the appropriation bill. We are ready, for one I am ready, to pass upon it item by item, and then take up the appropriation bill and do the same thing with respect to it.

[On the 3rd of March, the last day of the session, still hoping against hope, Mr. Clay said:]

Mr. President, I rise to make a motion to dispense with the morning business and previous orders, in order to proceed with the unfinished business which was left in that unfinished state on Saturday last; and while I am up I beg leave, not to make a speech—for I should consider him worthy of almost any punishment who should make a speech on this day—but to say it is manifest to the Senate and to the country that there is a majority in this body in favor of the passage of that bill; and I wish to appeal to the justice, to the generosity, to the fairness of the minority, to say whether they will, if they have the power—as I know they have the power—defeat the bill by measures of delay and procrastination? If they are determined to do it, although such a determination is utterly incom-

patible with the genius of all free governments, and I should hope, also, incompatible with that sense of propriety which each individual member must feel—if there is a determination upon the part of the minority to defeat the bill by measures to which they have the power to resort, but which I am loth to believe they would use—if there is such a determination and they will avow it, for one, as I think it of the utmost importance that great measures connected with the operations and continuance of the government —measures of appropriation—should be adopted, notwithstanding the pain which I should feel in being obliged to submit to the action of a minority, intending to defeat the will of a majority—if such is the avowed purpose, I will myself vote for the laying this bill upon the table. I hope there will be no such purpose. I trust that we shall take up the bill and vote upon it; and I implore its friends, if they desire to pass it, to say not one word, but come to the vote upon it.

[But the bill was lost, and, excepting a few remarks on the business of the called session that usually convenes immediately after the expiration of a Congress, to transact executive business, this attempt to get the River and Harbor bill through the Senate, was the last parliamentary effort of Mr. Clay.]



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